REPORT

OF

THE LOCAL FINANCE ENQUIRY COMMITTEE

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CHAPTER I

APPOINTMENT AND TERMS OF REFERENCE OF THE COMMITTEE

A conference of Provincial Local Self-Government Ministers was held at New Delhi on the 6th and 7th August, 1948 under the Chairmanship of the Honourable Minister of Health, to consider various matters relating to local bodies in the Country. The conference was inaugurated by the Honourable the Prime Minister. In the course of his address, he said :—

> "Local Self-Government is, and must be, the basis of any true system of democracy. We have got rather into the habit of thinking of democracy at the top and not so much below. Democracy at the top will not be a success unless it is built on this foundation from below."

It is obvious that no system of local self-Government can be success unless it is provided with adequate finance.

In his presidential address to the Provincial Local Bodies Conference at Surat in 1935, the (Honourable) Sardar Vallabhbhai Patel, (who was Chairman of the Ahmedabad Municipality) said :—

> "It is being said that the franchise of the electorate has been enlarged and the local bodies have been given very wide powers. True, I accept it. But what good would come out of it unless and until the question of local finances is settled first. The extension of franchise and widening the scope of duties would be like dressing a dead woman."

In her opening address to the Ministers' Conference (1948), the Honourable Rajkumari Amrit Kaur, Minister of Health, said :—

> "It is almost always explained that local bodies have not been able to discharge properly the numerous and important functions devolving on them because their financial resources are slender. While this is no doubt largely true, I am not sure whether it can be claimed that local bodies everywhere have been careful to mobilise all their resources carefully and to use them in the best manner possible for the good of the community. You must all the aware of the criticism that in many local bodies under-assessment of taxation is a serious evil and in many places the authorities fail even to collect in full the taxes actually assessed, leaving large arrears uncollected. As no organisation can function properly without adequate finance, it is obviously essential for local authorities to see that their taxes are properly assessed and collected."

2. One of the points on the agenda of the Conference was :—
"Finances of Local Bodies.

(a) Review of existing sources of local board revenue and suggestions for improvement.

(b) Should Government subsidize local bodies ? If so, to what extent ?"

When this item came up for discussion, representatives from various provinces dwelt on the financial position of local bodies in their respective areas and made suggestions for improving their financial condition. As conditions varies widely from province to province, the Conference felt that the problem required mor detailed study. It accordingly passed the following resolution :—

> "The Conference agrees that the financial resources of the local bodies are inadequate. It is also recognised that even the available resources are not fully utilised, the evils of under-assessment and failure to collect taxes in full being widespread.
>
> In view of the complexity of the problem of local finance the Conference recommends that the Central Government should appoint a committee to enquire into the question of the finances of local bodies and to make recommendations for the improvement of local finance."

3. **Appointment of the Committee.**—In pursuance of the above resolution, the Government of India in the Ministry of Health were pleased to constitute under their letter No. 13-7/48-63 LSG, dated the 2nd April 1949, a Committee in the following terms :

> "I am directed to say that in pursuance of a resolution passed by the Local Self-Government Ministers' Conference held at New Delhi in August 1948, the Government of India are pleased to constitute a Committee to be known as the Local Finance Enquiry Committee, which will be composed of the undermentioned persons :—

Chairman :

Shri P. K. Wattal (Retired Accountant General)

Members :

1. Shri R. K. Sidhva, Member, Constituent Assembly of India, New Delhi.
2. Shri C. D. Barfivala, Director, Local Self-Government Institute, Bombay.
3. Shri Rameshwar Narain Agarwala, Chairman, Bhagalpur Municipality, United Press Buildings, Bhagalpur City (Bihar).
4. Shri T. K. T. Veeraraghavachariar, Retired District Board Engineer, Gandhi Road, Chittoor, Madras.
5. Shri P. B. Gole, President, Akola Municipality, Akola (C. P. & Berar).
6. Shri R. D. Kapila Secretary, Local Self-Government Reforms Committee, East Punjab, Kennedy House, Simla.

7. Shri L. T. Gholap I. C. S.,
Secretary to the Government of Bombay,
Health and Local Self-Government
Department, Bombay.

8. Shri M. B.L. Dar, Secretary to the
Government of the United Provinces,
Health and Local Self-Government
Department, Lucknow.

9. One more member whose name will be communicated later.

Secretary :

Shri Labhu Ram Mehra.
(Retd. Assistant Examiner, Local Fund Accounts),
27, Todar Mal Lane, New Delhi.

2. The terms of reference of the Committee are as follows :—
To enquire into the question of the finances of local bodies and to make recommendations for the improvement of local finance and for that purpose,

(1) to examine whether the existing resources are adequate for the performance of the functions assigned to the local bodies and to consider whether and, if so, what further sources of revenue should be provided ;

(2) to examine the methods of Government assistance to local bodies ;

(3) to examine the existing machinery and methods of (i) assessment and (ii) collection of taxes."

4. Since the constitution of the Committee the following additions and alterations in personnel have taken place :—

(1) Shri S. K. Gupta, I.C.S., Secretary to the Government of West Bengal, Local Self-Government was appointed as a member of the Committee.

(2) On the resignation of Shri T. K. T. Veeraraghavachariar, Shri K. A. Nachiappa Gounder, M. L. A., of Salem (Madras) was appointed in his place.

(3) On his appointment as Chairman, Bombay Port Trust, Shri L. T. Gholap, I. C. S. resigned his membership and in his place Shri B. D. Mirchandani, I.C.S., Secretary to Government of Bombay, Health and Local Government Department, was appointed.

(4) Consequent on the inclusion of Improvement Trusts within the scope of the Committee, the membership was increased and Shri S. N. Sapru, Chairman Delhi Improvement Trust, was appointed as a member of the Committee in Government of India, Ministry of Health, letter No. D. 2875(5)—LSG/49 dated the 21st September, 1949.

Shri Labhu Ram Mehra could not join his duties as Secretary and was replaced by Shri D. P. Gupta, Retired Assistant Examiner of Local Fund Accounts, Uttar Pradesh. Shri Gupta worked as Secretary from 6th May 1949 to 22nd October, 1949. He was succeeded by Shri Dayaldas Sobhraj Parwani, Retired Assistant Secretary to the Government of Sind. Shri Parwani joined on the 27th October, 1949.

(5) The membership of the Committee was increased by the appointment of Raizada Hansraj of Jullundur but he expressed his inability to serve on the Committee. In his place, Shri Yashwant Rai, M. P. was appointed but he also resigned soon after his appointment.

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5. The Chairman took over charge of his duties on 14th April, 1950. The selection of office personnel took a little time and it was not till the 2nd May, 1949 that the office of the Committee began to function. The headquarters of the Committee were fixed at Simla by the Government of India.

6. The first session of the Committee was held on the 9th and 10 May, 1949 at Simla. At these meetings the questionnaire was approved for issue. A copy of the questionnaire is appended to this report (Appendix—I). On the receipt of the decision of the Government of India that Improvement Trusts should also be included within the scope of the enquiry, a supplementary questionnaire was issued. A copy of this is also appended (Appendix—1-A).

7. 4000 copies of the questionnaire were printed and 3400 actually issued to State Governments, local bodies, Chambers of Commerce, Universities, District Officers, Commissioners of Divisions, Heads of Provincial Departments concerned with local bodies members of the Constituent Assembly of India and the Provincial Legislatures and other non-officials interested in local finance.

8. The subject of local taxation of Central Government and Railway properties was particularly included in the questionnaire in pursuance of an understanding reached at the Local Self-Government Ministers' Conference that this question would also be referred to this Committee. The subject is of importance from the point-of view of local finance.

9. A question arose as to what local bodies should be included within the scope of the enquiry, particularly whether the enquiry should be confined to municipalities and rural boards, omitting the finances of primary units like village panchayats. The Committee held that the enquiry should include all units of local self-government from City Corporations down to village panchayats.

10. The Government of India in their letter No. D. 1395-LSG/49 dated the 20th August, 1949 informed the Committee that the terms "local bodies" occurring in the terms of reference should be interpreted to include Improvement Trusts. Improvement Trusts in various parts of the country were informed of this decision and requested to send replies to the supplementary questionnaire specially framed in respect of them.

11. During the course of evidence, certain proposals were made for altering the structure of local bodies as constituted at present. It was suggested that these alterations would result in economy in working. A doubt arose whether such proposals came within the terms of reference of the Committee. A reference was accordingly made to the Government of India in letter No. 6-36/49-LFEC dated the 21st December, 1949. The Government of India in their reply No. 5007-LSG/49 dated the 7th January 1950 ruled that the Committee should frame its recommendations on the basis of the existing structure of local bodies. A copy of the letter to the Government of India and their reply thereto are reproduced as appendices to this report (Appendices II and II-A).

12. At its meeting held on the 9th May, 1949, the Committee considered what territorial units should be included within its purview. The committee was not clear whether the scope of the enquiry was to include centrally administered areas other than the Chief Commissionerships of Delhi, Ajmer-Merwara and Coorg, such as Himachal Pradesh and States Unions. A referencewas accordingly made to the Government of India for a ruling on this point. The Government of India decided that the scope of the enquiry of the Committee should not be extended to either those Indian States which now form centrally administered areas or those which have combined to form Unions of States.

13. In regard to the above decision a further question arose whether States which had been merged in provinces were or were not included within the scope of enquiry of the Committee. The point was referred to the Government of India, who ruled that the scope of the enquiry should include such merged States. The Government of India, however, directed that such enquiry should be undertaken by the Committee only after it had been ascertained from the provinces concerned that there were local bodies in the merged States, whose finances the Committee could usefully enquire into. Action was duly taken on these lines and evidence from merged States was received in Bombay and Cuttack.

14. The Committee allowed a period of two months for the submission of replies to the questionnaire, but the number of replies received at the end of this period, *i.e.*, by the end of August 1949, was so small and the material at the disposal of the Committee for the pursuit of its enquiry so scanty that work had to be held up and special reminders issued to expedite replies. After a sufficient number of replies was received, the Committee framed its tour programme, issued invitations to selected officials and non-officials from whom written memoranda had been received and informed the State Governments of their impending visit to their capitals. The State Governments were requested to make arrangements for the holding of the meetings of the Committee and particularly to allow officials to give evidence before the Committee as well as to select other non-officials, who, in their opinion, could give useful evidence to the Committee.

15. The Committee proceeded on tour on the 7th December, 1949 and visited all the major (Part A) States by 31st March, 1950. A copy of the tour programme of the Committee together with a list of witnesses examined at each place is appended to this report (Appendices III & IV). Representatives of Coorg were examined in Madras, and representatives of Ajmer-Merwara and Delhi were examined in Delhi.

16. During the course of its tour the Committee held informal discussions with the Hon'ble Chief Minister and the Finance and Local Self-Government Ministers of each State. We are grateful to them for giving us the benefit of their first-hand knowledge of conditions of local bodies and their finances.

17. The Committee examined representatives of Finance, Local Self-Government, Education, Public Health and Public Works Departments in each State. In addition the Chairmen of Improvement Trusts and Development Boards, the executive heads of departments connected with local bodies, such as Directors of Public Instruction, Director of Public Health, Inspectors of Local Bodies, Directors and Assistant Directors of Panchayats, Commissioners of Divisions and selected Deputy Commissioners and District Collectors were also examined. Among non-officials, the Committee had the advantage of receiving the evidence of Shri Bijoy Prasad Singh Roy and Shri Ananda Prasad Chaudhury, Ex-Ministers of Local Self-Government in Bengal and the Mayors of Bombay and Madras, Shri S. K. Patil and Dr. P. V. Cheriyan. The Administrative Officer, Calcutta Corporation and the Municipal Commissioners of the City Corporations of Bombay and Madras also gave evidence on points specially concerning their respective Corporations. The Chairmen and Executive Officers of important municipalities and District Boards also helped the Committee. The Committee wish to thank them as well as other witnesses for helping the Committee in their investigation by sending written memoranda or giving oral evidence.

18. In Madras, Uttar Pradesh and West Bengal the Committee found that the State Governments had already appointed Committees of their own to deal with questions affecting local bodies in their respective areas. For instance, the Corporation of Calcutta Investigation Commission, whose report has already been published, dealt *inter alia* with the question of the finances of the Calcutta

Corporation. Similarly, the Madras Municipal Reforms Committee, appointed by the Government of Madras, had within its terms of reference the improvement of the finances of local bodies in that State. Likewise, the Uttar Pradesh Government had appointed a Grant-in-aid Committee.

19. The Committee felt that it would be useful to exchange views with these Committees and requested the State Governments concerned to arrange meetings with them. The Committee is grateful to the State Governments as well as to the Committees mentioned above for agreeing to this request. We had full and frank exchanges of views with them.

20. The Committee also wishes to place on record its grateful thanks for the various facilities extended to it by State Governments without which it would not have been possible to complete the work within the time at its disposal.

21. We are also indebted to the International Union of Local Authorities, 5, Paleisstraat, The Hague, for very valuable assistance in sending literature, brochures and special notes in response to our requests for information on various points concerning local finance in foreign countries. The British and U.S. Information Services in New Delhi also helped us by collecting information and allowing the use of their libraries. Our grateful thanks are due to them.

CHAPTER II
HISTORY OF LOCAL FINANCE

22. Municipal government flourished in cities in ancient India, but, in the sense in which it is understood today, it was first introduced in the town of Madras in the days of the East India Company. In 1687, the Court of Directors, acting on authority delegated to them by King James II of Great Britain, ordered that a corporation composed of British and Indian members, should be formed for purposes of local taxation. Funds were needed for the carrying on of administration, and it was felt that it would be easier to collect taxes if Indians were associated in some manner with their imposition. This corporation was formed on the model of similar institutions then existing in England. It was empowered to levy taxes for the building of a guildhall and a jail and a school house; for "such further ornaments and edifices as shall be thought convenient for the honour, interest, ornaments, security and defence" of the Corporation and inhabitants; and for the payment of the salaries of the municipal officers, including a schoolmaster. The experiment had a brief and unsuccessful trial. The people strenuously resisted the imposition of anything in the nature of a direct tax. The town hall, schools and sewers, which were to have been the first work of the new Corporation, could not be undertaken and the Mayor had to ask for permission to levy an octroi duty on certain articles of consumption in order that he might provide the necessary funds for cleaning the streets. A charter of 1726 superseded the Corporation by a Mayor's Court, which was more a judicial than an administrative body. Similar institutions were introduced in Bombay and Calcutta in 1726, but it was not until 1793 that the municipal administrations were placed on a statutory basis by the Charter Act of that year. This Act empowered the Governor-General to appoint justices of the Peace for the towns of Madras, Bombay and Calcutta. These Justices of the Peace were authorised to levy taxes on houses and lands to meet the cost of scavenging, police and maintenance of the roads. A uniform system of fixing the house tax at 5 per cent. of the annual rental value was introduced for the three Presidency towns. This method of assessment was borrowed from the english municipal system prevalent at the time. Though the rates have varied, the basis of assessment remains the same to this day, namely, the annual value.

23. The introduction of municipal institutions in mofussil towns began with the Bengal Act of 1842. This Act was applicable only to Bengal and was passed to enable "the inhabitants of any place of public resort or residence to make better provision for purposes connected with public health and convenience". It, however, proved inoperative since it was based upon the voluntary principle and its introduction in any town required the application of two-thirds of the householders. The taxation enforceable under it was of a direct character and for this reason also the law nowhere met with popular acceptance. It was introduced in one town, and there the inhabitants, when called on to pay the tax, not only refused but prosecuted the Collector for trespass when he attempted to levy it. The authorities were by this time convinced of the futility of direct taxation for local purposes. Accordingly, 1850 a new Act was passed, which was applicable to the whole of India. This Act also was permissive in nature, but it was more workable than its predecessor and, unlike it, made provision for the levy of indirect taxes, to which the people of the country were accustomed from time immemorial. It was largely used in several towns in the North-Western Provinces and Bombay, while in Madras and Bengal it had practically no effect. In Bombay the success of the Act was due to the fact that the taxes collected under it found their prototype in those levied by the Mahratta Government under the designation of town duties and

mohturfa*. It was not utilised in Madras, where voluntary associations for sanitary and other municipal purposes took the place of regularly constituted municipalities. In Bengal, the Town Police Act of 1856 permitted the levy of taxation for conservancy purposes.

24. The next stage in the growth of municipalities owes its inauguration to the Report of the Royal Army Sanitary Commission published in 1863, which, though primarily dealing with army affairs, drew prominent attention to the filthy condition of the towns. In the six years following the publication of this report, a series of Acts were passed providing for a wider extension of municipal administration and a number of municipalities were constituted in every province. The Bengal, North-Western provinces and Punjab Acts made the election of members of municipal councils permissive, but, except in the Punjab and the Central Provinces, they were in fact all nominated.

25. In the meanwhile, a parallel development of local institutions in rural areas was taking place. Local funds had been established for local improvements for some time, but the levy of rates for local purposes was not authorised by statute in any part of India until 1865 when an Act authorising the imposition of a cess of one anna in the rupee on land and *sayer* (miscellaneous) revenue, and a tax on shops in Sind was passed. A similar Act was passed in Madras in 1866 authorising the Government to levy a road cess at 3¼ per cent. on the annual rent of land. Bombay followed suit with Act III of 1869, providing for the creation of a local fund committee in each district, with the Collector of the district as president. These Committees were empowered to levy a cess of one anna in the rupee of land revenue and received certain other sources of revenue, and were to provide for the requirements of the district in regard to local public health, education and convenience. As a measure of local self-government these Acts did not go far, but they were of service in improving the sanitary condition of the areas concerned.

26. **Lord Mayo's Resolution of 1870.** Local self-government as a conscious process of administrative devolution and political education dates from the financial reforms of Lord Mayo's Government. The need for financial decentralisation as an aid to economy and efficiency of administration provided the occasion for a departure in policy. By resolution No. 3334 dated the 14th December, 1870, the Government of India made over to provincial governments certain departments of administration of which education, medical services and roads deserve particular mention, as they still constitute the principal activities of local bodies. The provincial governments were given a grant smaller than the actual expenditure on these departments and were required to meet the balance by local taxation. The beginnings of a system of local finance are thus to be found in the new scheme of provincial finance. As will be seen during the course of this review, many of the present day problems of local finance vis-a-vis provincial finance are similar in character to those which the provinces had to face in their dealings with the Government of India.

27. The resolution of Lord Mayo's Government went on to say :—

> "Local interest, supervision, and care are necessary to success in the management of funds devoted to education, sanitation, medical relief, and local public works. The operation of this Resolution in its full meaning and integrity will afford opportunities for the development of self-government, for strengthening municipal institutions, and for the association of Natives and Europeans to a greater extent than heretofore in the administration of affairs."

* A general tax, which was also in a sense a house tax, was levied under the Mahrattas under the name of mohturpha [paragraph 421, Indian Taxation Committee Report].

28. To carry out this policy new municipal Acts were passed in all the provinces. In Madras the country was divided into local fund circles, and consultative boards nominated by the Government under the presidency of the Collector of the district were constituted to administer the affairs of these circles. The Bengal District Road Cess Act of 1871 was the first step in the direction of local self-government in rural Bengal. It provided for the levy of a rate on real property for the improvement of communications and for the establishment of local bodies the members of which might either be nominated or elected by the rate-payers. Similar Acts were passed in the North-Western Provinces (now Uttar Pradesh) and the Punjab.

29. **Lord Ripon's Resolution of 1882.** Matters stood thus when the Government of Lord Ripon issued their famous Resolution dated 18th May, 1882. Reviewing the progress made in local self-government since 1870, the Government of India pointed out that a large income from local rates and cesses had been secured and in some provinces the management of this income had been freely entrusted to local bodies. Municipalities had also increased in number and usefulness. But there was still, it was remarked, a greater inequality of progress in different parts of the country than varying local circumstances seemed to warrant. In many places services admirably adapted for local management were reserved in hands of the provincial administration, while everywhere heavy charges were levied on municipalities in connection with the police over which they had no executive control. A fresh step forward was, therefore, considered to be both desirable and necessary.

30. Lord Ripon's Government desired that provincial governments should apply to their financial relations with local bodies the principle of financial decentralisation which Lord Mayo had introduced and which had worked satisfactorily between the Government of India and the provinces. The provincial governments were invited to undertake a careful scrutiny of provincial, local and municipal accounts, with a view to ascertain :—

(1) what items of receipt and charge could be transferred from 'Provincial' to 'Local' heads for administration by Committees comprising non-official and, wherever possible, elected members.

(2) what re-distribution of items was desirable, in order to lay on local and municipal bodies those which were best understood and appreciated by the people.

It was added that incidentally to this scrutiny provincial governments would probably notice and might carefully consider.

(3) ways of equalising local and municipal taxation throughout the Empire, checking severe or unsuitable imposts and favouring forms most in accordance with popular opinion or sentiment.

31. It was pointed out that it was not the intention of the Government of India that the proposed transfer of control of expenditure of a specially local character to local bodies should involve any addition to existing local burdens ; and it was therefore shown to be necessary to arrrange for a simultaneous transfer of receipts sufficient to meet any net balance of additional expenditure which in any instance might arise. The receipts to be thus transferred should, it was suggested, be such as to afford a prospect that, by careful administration, with all the advantages due to local sympathy, experience and watchfulness, they would be susceptible of reasonable increase. In cases where larger assignments of funds were required, the receipts from cattle pounds, or a share of the assessed taxes collected within the jurisdiction of a local body, were indicated as suitable sources of revenue to be made over.

32. In consequence of the issue of this Resolution, Acts were passed in the provinces between 1883 and 1885 which greatly altered the constitution, powers and functions of municipal bodies. Arrangements were also made to increase municipal resources and financial responsibility. Municipal revenues were relieved of the charges for the maintenance of the town police* in most provinces, on the understanding that they were to incur an equivalent expenditure on education, medical relief and local public works. At the same time some items of provincial revenue, suited to and capable of development under local management, were transferred from the provincial account, with a proportionate amount of provincial expenditure, for local objects.

33. **Functions of municipalities in Lord Ripon's time.** The primary functions of municipalities under the Acts passed during this period were :—

(1) the construction, upkeep and lighting of streets and roads, and the provision and maintenance of public municipal buildings ;

(2) public health, including medical relief, vaccination, sanitation, drainage and water-supply, and measures against epidemics ;

(3) education.

34. **Financial resources of municipalities in Lord Ripon's time.** The principal sources of revenue were :—

(1) octroi, principally in Northern India, Bombay and the Central Provinces (now Madhya Pradesh) ;

(2) taxes on houses and lands in Madras, Bombay, Bengal, Burma and the Central Provinces (now Madhya Pradesh) ;

(3) a tax on professions and trades in Madras and the United Provinces (now Uttar Pradesh) ;

(4) road tolls in Madras, Bombay and Assam ;

(5) taxes on carts and vehicles ;

(6) rates and fees for services rendered in the shape of conservancy, water supply, markets and schools.

35. **Functions and financial resources of rural boards in Lord Ripon's time.** The services entrusted to rural boards were similar to those made over to municipalities, the principal ones being communications, education and sanitation and, occasionally, famine relief.

The main income of these boards was derived from a cess on land, which was collected by Government agency along with the land revenue, the proceeds being subsequently adjusted to the credit of the boards. In some provinces, however, a portion of the cess was utilised for provincial purposes.

*In accordance with the principle adopted by the Government of India in Resolution No. 2245 dated 31st August 1864 that the expense of police for town populations should be defrayed by local funds, municipalities were required to defray the cost of all police employed on duties the performance which was necessitated solely by the existence of the town. These were designated "watch and ward" in contradistinction to those of "Law and Order". This policy continued till the year 1881 when fresh orders were issued and published in Finance Department Notification No. 3622 dated 13th October 1881. The purport of these orders was to relieve municipal bodies altogether of the charges for police, contingent on their undertaking an equal charge for education, medical relief and local public works. The Government of the North-Western Provinces and Oudh did not, however, at the time act on these orders and considered that municipalities should at any rate pay for watch and ward. In the Punjab also police charges continued to be borne by municipalities for a long time.

The functions and financial resources of local bodies continue to this day to be very much the same as those in Lord Ripon's time.

36. **Government of India Resolution of 1896.** The progress made in municipal administration since Lord Ripon's time was reviewed by the Government of India in Home Department Resolution dated 24th October, 1896. Municipal bodies were subject to the control of the Government in so far that no new tax could be imposed, no loan raised, no work costing more than a prescribed sum undertaken, and no serious departure from the sanctioned budget for the year made without the previous sanction of the Government ; and no rules or bye-laws could be enforced without similar sanction and full publication. These restrictions, as will be seen later, exist more or less to this day.

37. **Municipal income.** The income from mofussil municipal taxation throughout India during the years 1886-87 and 1894-95 increased from a little over a crore to about a crore and a half of rupees. The total income from all sources increased from Rs. 1,59,53,858 to Rs. 2,48,92,308. The increase in the one case was 35·1 per cent. and in the other 56 per cent. In 1876-77 the income from taxation was Rs. 97,12,153 and from all sources Rs. 1,23,72,210. The ratio of increase was, therefore, very much more rapid since the development of municipal institutions under Lord Ripon's legislation.

The incidence of taxation per head of municipal population increased from Rs. 0-14-1 to Rs. 1-1-5. The rate was highest in the Punjab, where it amounted to Rs. 1-6-6 ; in Bombay Rs. 1-5-6 ; and in Assam Rs. 1-2-11. Among the major provinces the rate was lowest in Bengal, where it amounted to only Rs. 0-13-7, and in Madras, where it was Rs. 0-13-10.

The figures by provinces are given below :—

Incidence of municipal taxation and municipal income per head of population in each province for the years 1886-87 and 1894-95.

Province		Incidence of taxation.		Incidence of income.	
1886-87)	MADRAS	Rs.	0-12-0	Rs.	1- 3-6
1894-95)		,,	0-13-10	,,	2- 5-10
1886-87)	BOMBAY	,,	1- 4-5	,,	1-13-5
1894-95)		,,	1- 5-6	,,	2- 5-10
1816-87)	BENGAL	,,	0-11-0	,,	0-15-1
1894-95)		,,	0-13-7	,,	1- 7-8
1886-87)	N.W.P & OUDH	,,	0-11-1	,,	0-14-6
1894-95)		,,	1- 0-7	,,	1-10-11
1886-87)	PUNJAB	,,	1- 2-3	,,	1-10-4
1894-95)		,,	1- 6-6	,,	2- 0-1
1886-87)	LOWER BURMA	,,	0-15-0	,,	3-13-1
1894-95)		,,	1- 1-4	,,	2-14-5
1886-87)	CENTRAL PROVINCES	,,	0-14-4	,,	1- 6-0
1894-95)		,,	1- 2-0	,,	2- 1-3
1886-87)	ASSAM	,,	0-11-8	,,	1- 9-11
1894-95)		,,	1- 2-11	,,	2- 4-3
1886-87)	HYDERABAD	,,	0- 6-10	,,	1- 4-1
1894-95)	ASSIGNED DISTRICTS (BERAR)	,,	0- 9-10	,,	1-10-2
1886-87)	COORG	,,	0-12-6	,,	1- 9-2
1894-95)		,,	0-13-2	,,	2- 4-11

As regards the principal sources of municipal income, the percentages by provinces for the year 1894-95 are given below:—

Provinces	Percentage of total income from municipal rates and taxes derived from								Percentage of total income excluding loans and advances derived from				
	Octroi	Tax on houses & lands	Tax on animals and Vehicles.	Tax on Professions and Trades.	Tolls	Water rate	Conservancy Tax.	Other Taxes	Taxation	Under special Acts*	Municipal property@	Grants from Govt. and other sources	Miscellaneous
Madras	...	46.9	11.2	16.8	23.9	1.2	...	...	59.8	0.3	18.3	18.5	3.1
Bombay	52.4	17.7	3.3	0.3	6.8	6.9	7.8	4.8	69.6	1.0	17.5	8.6	3.
Bengal	...	35.3	8.2	1.6	6.0	1.9	19.5	5.72	79.9	3.5	10.3	4.2	2.1
N.W.P. & Oudh.	81.6	3.2	1.3	4.3	1.4	5.4	0.6	2.2	80.7	2.0	14.2	1.9	1.2
Punjab	93.0	5.0	1.1	...	...	0.1	0.2	0.6	71.7	0.9	13.9	6.4	7.1
C.P.	71.7	4.0	0.1	1.8	0.9	6.4	10.3	4.8	68.8	3.6	11.0	5.0	11.6
Lower Burma	...	58.8	7.2	...	11.3	3.6	11.3	7.8	38.7	1.7	56.5	2.4	0.7
Assam	...	47.4	5.9	...	20.0	11.6	15.1	...	49.9	10.8	17.0	19.3	3.0
Hyderabad Assigned Distts.	...	...	0.8	49.8	6.8	20.5	19.9	...	39.1	2.9	32.8	19.6	5.6
Coorg	...	56.1	3.2	40.7	...	...	...	...	41.4	25.2	31.3	2.1	...

* Pounds, hackney carriages, licenses for sale of spirits, etc.

@ Rents of lands, conservency receipts, fees from markets, municipal fines, interest on investments, etc.

38. It will be seen from the above table that the main features of municipal revenue were :—

(*a*) The very large proportion of municipal income derived from octroi in the Bombay Presidency (52.4 per cent), the North-Western Provinces and Oudh (81.6 per cent), the Punjab (93 per cent), and the Central Provinces (71.7 per cent), while elsewhere octroi did not form an item of municipal revenue.

(*b*) The large proportion of income derived in Madras (46.9 per cent), Bengal (35.3 per cent), Coorg (56.1 per cent) and Assam (47.4 per cent) from taxes on houses and lands ;

(*c*) Only in Madras (16.8 per cent), Coorg (40.7 per cent), and the Hyderabad Assigned Districts or Berar (49.8 per cent) did the tax on professions and trades form an appreciable part of the revenue.

(*d*) The large proportion of the income derived from tolls on roads and ferries in Madras (23.9 per cent) and Assam (20 per cent).

(*e*) The large contributions by Government to the municipal income in Madras (18.5 per cent) and Assam (19.3 per cent).

39. **Municipal Expenditure.** As regards municipal expenditure, the percentages by provinces for the year 1894-95 were the follows:—

PERCENTAGE OF MUNICIPAL EXPENDITURE ON

Provinces	General Administration	Public Safety.	Water Supply and Drainage.	Conservancy.	Public Works	Other Measures for Public Health & Convenience.	Public Instruction.	Miscellaneous.
Madras	7.8	4 4	17.0	20.3	17.0	14.6	13.2	5.7
Bombay	10.1	5.6	20.8	18.4	13.5	10.6	14.7	6.3
Bengal	9.0	5.4	28.0	23.4	16.0	10.1	3.6	4.5
N.W.P & Oudh	10.6	13.1	25.5	19.7	12.0	6.3	3.0	9.8
Punjab	11.8	16.3	8.1	13.6	10.0	14.3	15.3	10.6
C. P.	13.3	0.9	20.4	21.8	13.0	11.5	12.7	6.4
Lower Burma	11.9	5.3	1.4	20.6	22.6	28.8	7.4	2.0
Assam	10.0	2.9	21.7	28.8	20.8	9.7	3.2	2.9
Hyderabad Assigned Districts	7.4	5.3	12.3	28.0	15.0	20.3	7.9	3.8
Coorg	5.8	2.4	32.8	17.9	7.0	25.9	6.5	1.7

It will be seen from the above table that the main features of municipal expenditure at the time were :—

(*a*) under 'general administration' the expenditure was more or less uniform throughout India, averaging about 9 or 10 per cent. of the income ;

(*b*) police charges, under the name of 'public safety' were still borne by municipalities, except in the North-Western Provinces (13.1 per cent) and the Punjab (16.3 per cent) ; in others it varied between 4 or 5 per cent ;

(*c*) a large proportion of the annual expenditure, varying from 20 to 30 per cent, was concerned with projects of water supply and drainage;

(*d*) the expenditure on conservancy was substantial, varying from 13.6 per cent. in the Punjab, and 18.4 per cent. in Bombay to 28 per cent. in Assam and the Hyderabad Assigned Districts (Berar);

(*e*) the expenditure on roads was fairly large, varying from 10 per cent. in the Punjab, to 17 per cent. in Madras and 20.8 per cent. in Assam.

(*f*) the expenditure on education was not very high, varying from 3 per cent. in North-Western Provinces and Oudh and 3.6 per cent. in Bengal to 12.7 per cent in Central Provinces, 13.2 per cent. in Madras, 14.7 per cent. in Bombay and 15.3 per cent. in the Punjab.

40. **Government of India Resolution of 1897.** The progress made by local boards in rural areas was separately reviewed in a resolution dated 20th August 1897. Though in all the more advanced provinces district boards had been constituted by then, their financial powers were not uniform. In Madras the boards had the power of proposing local taxation, and in Bengal they were empowered to decide at what rate, within the statutory maximum, the road cess might be levied in each district. But for the most part the district boards did not possess power of taxation. They administered funds, or the yield of specific imposts, made over to them for expenditure on roads, schools, hospitals, and sanitation, within their jurisdiction.

41. **Income of rural boards.** The percentages by provinces for the year 1895-96 are given below :—

Provinces	Total Boards' income (excluding Loans and Advances).	Percentage of Total Income, excluding Loans and Advances derived from—								
		Rates	Cattle pound Receipts	Education Receipts	Medical Receipts	Miscellaneous Receipts.	Received from Civil Works	Contributions. From provincial to local	Contributions. From other sources	Other Items
	Rs.									
Madras	85,62,000	62.3	—	2.6	.3	7.1	11.9	3.8	10.1	1.9
Bombay	50,16,742	57.3	3.8	3.1	.8	.3	12.2	21.1	.4	1.0
Bengal	59,62,871	60.8	7.0	.9	.4	3.0	18.3	8.6	.0	1.0
N.W.P. & Oudh	37,84,420	49.9	4.6	5.8	3.8	.9	.1	29.9	2.8	2.2
Punjab	30,58,137	75.6	1.9	2.8	.9	1.3	9.1	2.5	.1	5.8
C.P.	8,13,869	49.3	21.3	1.1	1.0	3.2	9.6	14.0	.2	.3
Assam	10,47,556	61.8	6.0	.0	—	1.5	10.6	20.1	—	—
Hyderabad Assigned Districts.	5,60,663	50.6	2.5	8.8	—	32.5	.5	3.4	—	1.7

The main features relating to the income of the rural bodies were as under :—

The total income increased during the seven years 1889-90 and 1895-96 from Rs. 2,67,83,682 to only Rs. 2,93,38,306 or by 11 per cent. These figures bring to light the comparatively unexpansive nature of the sources of revenue open to local bodies.

Among the main heads of income, the most important item is provincial rates or the local fund cess. In Madras the maximum was 2 annas per rupee of the assessment, but in 1895-96 the actual rate at which it was collected was, except in three districts, one anna in the rupee of assessment. In Bengal the income under this head represented the balance of the road cess after deducting the cost of collection and revaluations. In the Punjab rural boards generally received four-fifths of the local rate, the rest being utilised by the provincial government for its own purposes.

42. All the other items of income were comparatively insignificant. The incidence of taxation per head of population was Re. 0-1-5 in 1889-90, and remained at that figure in 1895-96. The incidence of income per head of population showed a small rise from Re. 0-2-5 in 1889-90 to Re. 0-2-6 in 1895-96.

The incidence of taxation and of total income per capita by provinces for the years 1889-90 and 1895-96 are given below :—

Provinces		Incidence of taxation per capita	Incidence of total income per capita
		Re.	Re.
Madras	1889-90	0-2-7	0-4-3
	1895-96	0-2-8	0-4-5
Bombay	1889-90	0-2-9	0-4-4
	1895-96	0-2-8	0-4-8
Bengal	1889-90	0-0-11	0-1-9
	1895-96	0-0-11	0-1-9
Punjab	1889-90	0-2-0	0-2-5
	1895-96	0-2-0	0-2-8
N.W.P.&	1889-90	0-0-9	0-1-7
Oudh	1895-96	0-0-8	0-1-4
C.P.	1889-90	0-0-6	0-1-5
	1895-96	0-0-8	0-1-6
Assam	1889-90	0-1-8	0-3-11
	1895-96	0-2-1	0-3-11

43. **Expenditure of rural boards.** The following table shows the proportion of expenditure in 1895-96 under each head in different provinces :—

Province	Education	Medical	Civil Works	Refunds and drawbacks	(Administration) General Establishments of local funds	Cattle-pounds charge	Miscellaneous	Famine Relief	Contributions	Other items
Madras	13.6	15.4	48.7	.	4.3	—	3.6	—	13.5	.7
Bombay	31.1	5.2	55.6	—	2.7	—	2.4	—	1.4	1.6
Bengal	19.3	3.9	70.4	.0	4.7	.3	1.2	.0	.1	1.0
N.W. P & Oudh	34.4	14.0	49.1	—	1.5	—	.6	—	—	.4
Punjab	20.9	11.2	35.4	1.9	4.0	.7	1.2	—	18.2	6.5
Central Provinces	30.7	8.2	44.6	.4	4.3	7.2	1.4	.1	1.7	1.4
Assam	17.8	6.3	68.8	4.5	.2	—	2.3	—	—	.1
Hyderabad Assigned Districts	30.4	1.2	45.7	2.9	6.4	—	9.2	—	.1	4.1

The review by the Government of India brought out the following main features :—

(1) Expenditure under education increased in every province. The aggregate expenditure amounted in 1895-96 to Rs. 63,44,723 as compared with Rs. 51,01,466 in 1889-90. Compared to the size of the population included within the jurisdiction of local boards these amounts must seem very small.

(2) The expenditure under 'medical' was generally much smaller than on education, less than half, though it increased from Rs. 22,10,929 in 1889-90 to Rs. 27,88,780 in 1895-96. The largest expenditure was on civil works. It aggregated Rs. 1,58,29,536 in 1895-96 as compared with Rs. 1,41,05,028 in 1889-90. This expenditure was mostly on roads and sanitary improvement. None of the other items call for any remarks.

44. **The Decentralisation Commission.**—In 1907-08 the entire subject of local self-government was considered by the Royal Commission on Decentralisation. During the course of the evidence it was clearly brought out that the resources of local bodies were not adequate to the proper execution of the duties assigned to them. For instance, Sir Herbert Risley, then Home Secretary to the Government of India, said :—

> 'I think it must be admitted that the resources of district boards and district municipalities are not sufficient to enable them to work up to modern standards of local administration. In municipalities this is most conspicuously the case in respect of schemes of water supply and drainage, the advantages of which, especially

of the former, are now pretty generally realised. Similarly, in some rural areas in Bengal the old sources of water supply have fallen into disrepair and the district boards are approached with demands far beyond their financial resources. In other parts of the same province the silting up of old channels and changes of levels are believed to cause malarial fever, and large schemes of drainage are advocated which the local bodies are unable to carry out."

45. The evidence of Sir James Meston, then Finance Secretary to the Government of India, was equally clear on the point :

"Q. 44989 : With regard to the division of the financial burden between local funds and provincial funds, has not the tendency been in recent days to impose too many responsibilities of Local Boards without giving them sufficient funds to meet them ?

A. *I quite agree; Local Boards in many provinces—I do not* say all—have been very much curtailed in their financial independence, I should like to see that matter reminded."

"Q. 44990 : The evidence before us is that there is very little popular interest taken in Local Boards, one reason being that they were starved, and that they were called upon to do work without having the money to pay for it ?

A. That is a reasonable grievance, but I do not think it is the only one."

"Q. 44991 : It is not the only one, but it is said that there is not enough money for village demands because most of it is swallowed up by Government departments such as the Medical Department, the Veterinary Department, and the Education Department, and so on ?

A. Yes."

"Q. 44992 : Would you, as a matter of general policy, be inclined to meet that by relieving Local Boards of certain of their responsibilities or by giving them a larger assignment of revenue ?

A. Personally speaking I should like to see the Local Boards given much larger responsibilities and revenues to meet them."

"Q. 44993 : Local Governments give them grants for specific purposes as it is, but do not these grants vary from year to year in many cases ?

A. Yes : local governments give them special grants for special works frequently and they also give them general assignments to supplement their defective revenue."

"Q. 44994 : Would you approve of giving these grants on a stable basis and making them lump assignments, on the analogy of the settlement made by the Government of India with the provincial Governments :

A. Precisely; I should like to see District Boards (speaking with personal experience of only one province—the United

Provinces) placed on a semicontractual relation with the provincial government, receiving either the rates or a definite share of the revenue, also the miscellaneous receipts which they at present enjoy, tolls, ferries and the like ; and if necessary having their revenues supplemented by fixed assignments from provincial funds. I should like to see that arrangement made in the form, to begin with, of a quinquennial settlement."

46. The main conclusions and recommendations of the Commission in relation to functions and finances of local bodies were as follows :—

A-Village Organisation

The functions of village panchayats must be largely determined by local circumstances and experience. Generally, they might be entrusted with the following functions :—

(*a*) Summary jurisdiction in petty civil and criminal cases ;

(*b*) Incurring of expenditure on the cleansing of the village and minor village works ;

(*c*) Construction and maintenance of village school houses and some local control in respect of school management ;

(*d*) Management of small fuel and fodder reserves in selected panchayats.

The Commission considered it essential for the success of the panchayat system that it should not be concomitant with any new form of local taxation. Panchayats should receive a portion of the land cess levied for local board purposes in the village, special grants for particular objects of local importance, receipts from village cattle pounds and markets entrusted to their management, and small fees on civil suits filed before them. The application of the funds entrusted to them should be judged by general results and should not be subjected to rigid audit.

With the panchayat system thus developing, the Commission did not consider it necessary to retain artificial local agencies such as village unions and sanitary committees.

Such outside supervision of panchayat affairs as was necessary must rest with the district officers. The panchayats should not be placed under the control of district or sub-district boards.

B-Rural Boards

(1) The Commission was of the opinion that sub-district boards should be universally established and that they should be the principal agencies in rural board administration.

(2) Ordinarily a sub-district board should be established for each taluka or tehsil but where sub-divisional boards have been working and/or may be made to work satisfactorily, the sub-division may remain jurisdictional area.

(3) The Commission did not propose the abolition of district boards or to make them mere councils of delegates from the sub-district boards for the settlement of matters of common interest. Nor did they desire to place sub-district boards entirely under the control of the board for the whole district. They suggested a scheme under which the sub-district boards would have independent resources, separate spheres of duty and larger responsibilities within their sphere ; while the district board, besides undertaking some district functions for which it seemed specially fitted, would possess coordinating and financial powers in respect of the district as a whole.

(4) Sub-district boards should have the charge of minor roads in the district; of primary and (where they desired it) middle vernacular education; of medical work; of vaccination; and of sanitary work in rural areas where this had not been entrusted to panchayats.

(5) The district board should keep up the main roads in the district, with the exception of trunk roads which should be a Government charge; and should maintain district services for work under the sub-district boards, in respect of roads, education, medical relief and sanitation.

(6) District boards which desired to maintain their own engineers should be allowed to do so and it should be left to the discretion of the local Government to employ such engineers to execute minor works for Government.

The restrictions on the sanction of ordinary works and sanitation estimates by rural boards should be abrogated, but they should have the right to call upon Government engineers and sanitary officers for assistance in regard to such matters.

(7) The Government should place rural boards on a sounder financial footing—

(a) by letting them have the whole of the land cess;

(b) by rateable distribution of the special grant of 25% on the land cess now made;

(c) by increasing this grant when circumstances permitted;

(d) by taking over charges in respect of trunk roads; famine and plague relief; local veterinary work, and any charges now incurred by the boards in regard to police, registration of births and deaths, etc. Nor should rural boards be required to make any contribution in respect of provincial services for other items of provincial administration, or for assistance rendered to them by Government officers in the ordinary course of their duties.

(8) Where poor districts required special grants from Government, these should be made in lump sums or as percentages of expenditure incurred on specific services and they should be given under a quasi-permanent settlement.

(9) District board should not be allowed to increase the land cess beyond one anna in the rupee on the annual rental value, and sub-district board should not raise any separate land cess. Otherwise, rural boards should be able to levy rates and fees at their discretion within the limits laid down by law. Where no definite limits have been prescribed the sanction of the Commissioner of the Division should be required to changes in the rates.

(10) Sub-district boards should receive a fixed proportion, generally one-half of the land cess raised in their areas and certain sources of miscellaneous revenue. Additional resources would come from grants distributed by the district board.

(11) The principal items of revenue of the district board would be the rest of the land cess less the amount to be assigned to village panchayats; certain miscellaneous receipts and grants from Government. Such monies as are not required for direct district board services should be distributed among the sub-district boards with reference to their varying needs.

(12) Rural boards should not be bound to spend specific proportions of their income on particular services. Sub-district boards should not have borrowing powers. District boards may borrow under present conditions.

(13) Rural boards, whether district or sub-district, should have full power to pass their own budgets. They should, however, maintain prescribed minimum balances, which should not be drawn on without the sanction of the Commissioner of the Division in the case of district boards and of the district board in the case of sub-district boards.

(14) The sanction of the Commissioner of the Division should be required in regard to the appointment, removal and salary of district board engineers, paid secretaries and health officers where these are entertained. Otherwise the only outside control over rural boards in establishment matters should be the promulgation by the Provincial Government of model bye-laws or schedules, laying down general rules in regard to such matters as leave, acting and travelling allowances, pension or provident funds and the maximum salary to be given to officials of various classes. Departure from these schedules should require the sanction of the provincial government, or of the Commissioner of the Division in salary matters.

C-Municipalities

(1) Municipalities should have the same full powers as suggested for rural boards in respect to the services assigned to them.

(2) They should undertake primary education and may—if they are able and willing to do so—devote money to middle vernacular schools. Otherwise, the Government should relieve them of any charges which they now have to incur in regard to secondary education, hospitals at district headquarters, famine relief, police, veterinary work, etc.

Nor should they contribute for services which are made provincial, or be made to devote specific proportions of their income to particular objects.* The Commission was of the view that municipalities should have full discretion as to the application of their revenues to the services which they had to render to the public.

(3) While the Commission did not propose that municipalities should receive and regular subvention from Government, corresponding to the 25 per cent. on the land cess given to rural boards, they thought that municipalities should receive assistance in respect to specially large projects, such as those concerned with drainage or water supply; and in the case of the poorer municipalities some subvention for general purposes would probably be required. Grants of this latter description should, as in the case of rural boards, be of a practically permanent character.

It is interesting to note that the Commission were not in favour of regular grants-in-aid to municipal funds, except for large projects mentioned above. This was on the ground that municipalities are more advanced and more wealthy than rural areas and that in their case they recommended the withdrawal of existing restrictions on powers of taxation.

(4) In regard to taxation the position at the time was that a municipality could not levy a tax or charge provided for in the municipal law, or vary the rate of incidence, without the sanction of the provincial government, as in Madras, or of the Commissioner of the Division, as was usually the case in Bombay.

The Commission recommended that municipalities should have full liberty to impose or alter taxation within the limits laid down by the municipal laws; but that where an Act did not prescribe a maximum rate, the sanction of an outside authority should be required to any increase in taxation. Such autho-

*The Commission said that in the Punjab, municipalities had, like rural boards, been subjected to orders laying down specific percentages of their income which must be applied to particular services; and in the United Provinces municipal councils had to devote a certain proportion of their revenues to education.

rity would ordinarily be the Commissioner, but in the case of cities it should be the provincial government. Mr.R.C. Dutt, a member of the Commission, thought that the sanction of the Local Government, or preferably of a special Local Government Board, should be necessary to any variation in municipal taxation, in order to prevent frequent changes in rates which would be harassing to the people. Similar outside control should be required (as was usually the case) where a municipality desired specially to exempt any person or class of persons from municipal taxation.

(5) Government control over municipal borrowing should continue, and any permanent alienation of municipal property, or lease of the same for periods of seven years and upwards, should require outside sanction.

(6) Subject to the maintenance of prescribed minimum balances, municipalities should have a free hand in respect to their budgets.

(7) The control of municipalities over their establishments should be of the same character as suggested for rural boards.

(8) In some of the larger cities it might be desirable to vest the executive administration in the hands of a full time nominated official, apart from the chairman of the municipal council. Such an officer would, however, be subject to the control of the council as a whole, and of a standing committee thereof.

(9) The Corporations of the Presidency towns should all have powers as large as those which the Bombay Municipality possessed.

(10) Where it was considered expedient that hospitals and educational institutions in a Presidency town should be directly controlled by Government, the municipality should not be forced to contribute thereto.

47. **Mr. Gokhale's Resolution in the Indian Legislative Council.** While the report of the Decentralisation Commission was under consideration, a resolution was moved on 13th March, 1912 in the Indian Legislative Council by the Hon'ble Mr. Gopal Kishna Gokhale in the following terms:—

> "That this Council recommends to the Governor General in Council that a Committee of officials and non-officials may be appointed to enquire into the adequacy or otherwise of the resources at the disposal of local bodies in the different provinces for the efficient performance of the duties which have been entrusted to them, and to suggest, if necessary, how the financial position of these bodies may be improved."

Mr. Gokhale, in moving his resolution, said that though the Decentralisation Commission went at some length into the general question of local self-government, its enquiry into the adequacy or otherwise of the resources at the disposal of local bodies was extremely slight. He added that local self-government continued to be where it was carried by the late Marquis of Ripon. There were altogether 717 municipalities in the country, 197 district boards and about 517 sub-district boards. Taking the four leading Municipal Corporations of Bombay, Calcutta, Madras and Rangoon, their total revenue was Rs. 2½ crores. The average revenue of the remaining 713 municipalities was only about Rs. 55,000 each. The incidence of taxation was highest in Rangoon, being Rs. 11.61 per head; Bombay City came next with Rs. 10 per head; Calcutta followed with Rs. 8.5 and Madras came last with a little over Rs. 3 per head. In the remaining mofussil areas, the average was about Rs. 2 per head in Bombay, Punjab, Burma and the North West Frontier; in the Central Provinces it was Rs. 1.75; in the United Provinces and Bengal it was a little over Rs. 1.5 and in Madras

it was only Rs. 1.33. The municipalities had power of taxation within certain limits, with the previous sanction of the local government. The rural boards had no power of taxation ; they were limited to the one anna cess. In rayatwari areas it was levied on the Government assessment, and in other areas it was assessed on the annual rental value of land. The total revenue from taxation from provincial rates in rural areas was about Rs. 2.33 crores and another Rs. 2.5 crores was received from various sources, including a small grant from Government. This gave an incidence of less than 4 annas per head. The local boards, moreover, did not get the entire proceeds of this one anna cess in all the provinces. In the United Provinces, one-third was taken by Government for village chowkidari police and, in the Punjab, 20% had to be paid to Government for general services. In Bengal, a portion went to Government for public works cess, and in the Central Provinces, only 5% of the land revenue was levied as the one anna cess and went to local bodies. The resources of local bodies were pitifully unequal to a proper performance of the functions entrusted to them. Only about 3% of the towns had got a filtered water supply and even a smaller proportion had got efficient drainage. In villages over the greater part of the country good potable water was a crying want. The total number of hospitals and dispensaries in the country was less than 2,700 and disease carried away annually large numbers of people, at least one-third of which mortality ought to be preventible with better sanitation and water supply. This resolution was looked upon with disfavour by the government of the day, which had an official majority in the Council. Rather than see his resolution defeated, Mr. Gokhale withdrew it on receiving an assurance from the Finance Member of the Government of India that the views expressed at the meeting would receive due consideration when dealing with this question.

While withdrawing his resolution, Mr. Gokhale said that he was quite sure that some day or other the Government would have to make an inquiry into the subject. The Local Finance Enquiry Committee is the first all-India †Committee appointed to consider this subject, although there have been committees in several provinces which have gone into the question as affecting local bodies in their areas.

48. **Government of India Resolution of 1915.** The views of the Government of India on the proposals of the Decentralisation Commission were embodied in a resolution dated the 28th April, 1915.* In this resolution the Government of India referred to 'the smallness and inelasticity of local revenues' and 'the difficulty of devising further forms of taxation' as some of the factors which impeded the free and full development of local self-government.

49. The total income of 701 municipailites (excluding Presidency towns and Rangoon) at the close of 1912-13 was Rs. 4,92,42,675 or an average of about Rs. 70,245 a year. This compared favourably with the total income of Rs. 2,76,61,215 for 753 municipalities in 1902-03.

50. **Municipal income and expenditure.** The following statements show the proportions under various heads of municipal income and expenditure respectively in the different provinces for the year 1912-13 :—

† The question of local taxation, which is an important part of local finance, was dealt with in the Report of the Indian Taxation Enquiry Committee, 1924-25.

* Government of India, Department of Education, Nos. 55-77 (Municipalities) dated the 28th April, 1915.

INCOME

Percentage of total income from Municipal rates and taxes derived from

PROVINCES	Octroi	Tax on houses & lands	Tax on animals and vehicles	Tax on professions & trades	Tolls	Water rate	Conservancy tax	Other taxes	Taxation	Under special Acts	Municipal property	Grants from Government and other sources	Miscellaneous
Percentage of total income excluding loans and advances derived from													
Madras	—	45.0	10.2	8 6	19.0	16.8	—	0.4	44.0	0.3	15.1	36.4	4.2
Bombay	46.9	16.3	3.2	0.3	4.5	16.9	8.0	3.9	62.6	0.5	16.4	17.1	3.4
Bengal	—	37.2	5.5	1.8	2.1	13.9	25.1	14.4	75.8	2.1	8.4	11.5	2.2
United Provinces	69.2	5.4	1.0	3.8	2.8	6.6	1.1	10.1	62.8	1.6	19.7	13.6	2.3
Punjab	89.7	6.8	0.8	—	—	1.3	1.2	0.2	63.1	0.8	19.3	13.7	3.1
Burma	—	42.5	3.7	—	14.0	9.2	20.6	10.0	38.1	1.1	42.3	17.2	1.3
Bihar and Orissa	1.7	40.7	9.5	1.8	5.6	3.5	21.6	15.6	62.5	1.4	9.9	25.1	1.1
Central Provinces	61.6	3.3	4.3	0.1	1.2	15.3	10.9	3.3	60.3	2.7	16.3	16.4	4.3
Berar	—	20.7	4.3	26.8	10.4	4.6	20.5	12.7	47.9	8.2	13.5	29.5	0.9
Assam	—	40.5	7.6	—	9.9	11.6	22.1	8.3	36.8	4.0	10.8	47.3	1.1
North West Frontier Province.	98.0	0.6	0.1	—	—	1.2	0.1	—	42.1	0.2	15.9	41.1	0.7
Coorg	—	62.7	3.9	7.1	7.4	—	—	—	28.1	.6	11.9	56.8	—
Delhi.	80.2	13.1	4.8	1.9	—	—	—	—	38.5	.3	19.8	39.5	1.9

EXPENDITURE.

Percentage of Municipal Expenditure on

PROVINCE	General Administration	Public Safety	Water supply and drainage	Conservancy	Public Works	Other measures for public health and convenience	Public instruction	Miscellaneous
Madras ...	6.9	4.2	10.5	20.3	27.6	13.2	10.2	7.2
Bombay ...	8.5	5.2	25.1	14.1	14.3	10.5	15.2	7.1
Bengal ...	7.2	6 9	24.7	26.8	16.4	7.5	3.3	7.2
United Provinces	10.2	6.0	27·7	17.2	13.9	6.2	4.5	14.3
Punjab ...	12.0	6.1	16.8	13.8	15.5	15.9	4.3	5.2
Bihar and Orissa	8.2	5.5	12.7	28.3	15.7	21.9	3.0	4.7
Central Provinces	11.1	3.2	0.4	15.9	10.3	11.9	10.2	7.0
Berar ...	9.4	4.6	24.4	21.6	8.9	10.5	18.3	2.3
Assam ...	5.7	3.8	32.6	23.3	19.4	7.9	4.2	3.1
North-West Frontier Province	10.8	7.4	11.1	16.5	13.7	21.3	14.3	4.9
Coorg ...	10.8	8.4	1.6	19.3	8.6	8.4	16.5	30.4
Delhi ...	7.4	4.0	33.5	18.0	10.9	11.0	1.8	13.4

51. **Municipal Taxation.** The most important taxes in force in 1912-13 (as well as now) were octroi duties, levied principally in Bombay, the United Provinces, the Punjab, the Central Provinces and the North-West Frontier Province, and the tax on houses and lands which held (and still holds) the chief place in the other provinces as well as in Bombay City. A tax on professions and trades yielded a considerable revenue in the provinces of Madras, Bengal, U. P. and the C. P. A pilgrim tax, which is a form of terminal tax, was imposed in Banares, Calcutta, Hardwar, Ayudhia and Thaneshwar.

52. The Government of India did not accept in full the recommendation of the Decentralisation Commission that municipalities should have full liberty to impose or alter taxation within the limits laid down by the municipal laws, but agreed that the sanction of an outside authority to any increase in taxation should be required where the law did not prescribe a maximum rate. It was pointed out that maximum rates were prescribed in the Madras, Bengal and Burma Acts, and in the Punjab, U. P. and C.P. so far as regards the tax on buildings and lands, but none was laid down in Bombay. One objection was that if such a power were given, a municipality might reduce its taxation without due consideration to the needs of the administration and the security of loans. The Government of India, while recognising the force of such objections, were, on the whole, in general sympathy with the Commission's recommendations. They thought, however, that power to vary any tax might be reserved by such provincial governments as were

unable to accept in full the recommendation of the Commission and that in the case of indebted municipalities the previous sanction of higher authority should be required to any alteration of taxation.

53. The municipal boards had by this time been relieved of all charges for the maintenance of police within municipal limits, as also from financial responsibility for famine relief. The principle was also generaly accepted that, in the event of severe epidemics, they should receive assistance from Government.

54. **Municipal control over services.** The Commission recommended that if a municipal or rural board had to pay for a service it should control it, and that where it was expedient that the control should be largely in the hands of Government, the service should be a provincial one. The Government of India, while not prepared to accept the proposal in full, approved it in a somewhat modified form. They considered that charges should be remitted in cases where a local body contributed to Government for services inherent in the duty of supervision and control by Government officers, or for services which could not expediently be performed except by Government agency.

55. **Control over municipal budgets.** Commenting on the minute control exercised in some provinces over municipal finance, the Decentralisation Commission recommended that municipalities should have a free hand with regard to their budgets ; the only check required should be the maintenance of a minimum standing balance to prescribed by the provincial government. They acknowledged that relaxed control might lead to mistakes and mismanagement, but they were of opinion that municipal bodies could attain adequate financial responsibility only by the exercise of such powers and by having to bear the consequences of their errors. Owing to divergence of opinion among provincial governments on this point, the Government of India issued no definite instructions, beyond saying that they regarded the recommendations of the Commission as expressing a policy to be steadily kept in view and gradually realised.

56. **Control over sanction to works.** The Decentralisation Commission were of the view that the restrictions on municipalities which required outside sanction for works estimated to cost more than a certain amount should be removed but that Government should scrutinise and sanction estimates of projects to be carried out from loan funds. On this point also the Government of India issued no definite instructions, beyond saying that they were in favour of extended freedom for local bodies, subject, where necessary, to proper precautions against extravagant and ill-considered projects the precise extent of relaxation of existing restrictions they left to the provincial governments.

57. **Control over municipal establishment.** The Commission recommended that the degree of outside control over municipal establishments should be relaxed, that the appointment of municipal secretaries or other chief executive officers, of engineers and health officers, where these existed, should require the sanction of the provincial government in the case of cities, and of the Commissioner of the Division elsewhere, and that the same sanction should be required for any alteration in the emoluments of these posts, and for the appointment and dismissal of the occupants. As regards other appointments, the Commission proposed that the provincial governments should lay down for municipal boards general rules in respect to such matters as leave, acting and travelling allowances, pensions or provident funds and maximum salaries, and their sanction should be required for any deviation therefrom. The Government of India, while considering that government control over other posts might reasonably be relaxed, accepted the view that outside sanction should be required to the appointment or dismissal of secretaries, engineers and health officers.

58. **Finances of district boards.** Coming to the financial condition of district boards, the Government of India observed that their funds were mainly derived from a cess levied on agricultural land over and above the land revenue, with which it was collected and not usually exceeded one anna in the rupee(6¼%)on the annual rent value. Since 1905 this income had been specially supplemented by a Government contribution amounting to 25 per cent. of the then existing income. Besides this, special grants were frequently made to district boards by provincial governments.

59. Up to 31st March 1908, the proceeds of the local fund cess were included in the general revenues and assignments from them made to the boards. From April 1908 the accounts of the district boards were excluded from the general provincial accounts, and their funds treated independently in the same way as municipal funds. The total number of district and sub-district boards in 1912-13 was 199 and 536 respectively, with an aggregate income of Rs. 5,68,08, 292. Prior to 1913 the district boards of several provinces did not receive the whole of the land cess. For example, the cess in Bengal and Bihar and Orissa was divided into two parts, namely, the road cess and the public works cess. The dristrict boards only received the road cess while the public works cess belonged of right to the provincial Government, which returned, however, a portion in the shape of discretionary grants. In the other provinces, e.g., the U. P. the Punjab and the North-west Frontier Province, considerable deductions were made by the provincial governments concerned from the cess for various purposes. In 1913 the Central Government made assignments to the provincial governments concerned, to enable them to hand over the entire net proceeds of the cess to the boards. The relief thus given amounted to Rs. 82,33,000 a year and the provinces which benefited were Bengal, U.P., Bihar and Orissa, and to a smaller extent, the Punjab and the N. W. F. P. The income of district boards in Bengal, the U. P. and Bihar and Orissa increased mainly by this measure by 44, 43 and 55 per cent. respectively in the year 1913-14.

60. **Income and expenditure of district boards.** Apart from the cess, the boards had other sources of income, such as cattle pound receipts, educational receipts, medical receipts, tolls from ferries and bridges, and contributions for specific purposes from the provincial funds. The expenditure of the boards was chiefly for roads and bridges, hospitals, vaccination, conservancy, drainage, water supply, primary education, markets and rest houses. The following statement shows the proportions under various heads of income and expenditure of the district boards in the different provinces for the year 1912-13 :—

INCOME

PROVINCES	Percentage of total income excluding loans and advances derived from								
	Rates	Cattle pound receipts	Educational receipts	Medical receipts	Miscellaneous receipts	Receipts from Civil Works	From provincial to local	From other boards	Other items
Madras	36.8	—	1.9	0.4	5.1	10.5	34.0	0.9	10.4
Bombay	43.2	2.0	2.5	0.1	0.3	6.4	40.5	1.7	3.3
Bengal	46.2	5.7	0.9	0.1	0.4	7.4	34.3	2.6	2.4
U. P.	45.8	6.3	3.6	0.3	0.4	8.4	27.2	6.5	1.5
Punjab	45.8	1.4	4.0	0.3	1.3	10.2	30.7	2.1	4.2
Bihar and Orissa	53.9	4.9	0.7	—	0.4	7.6	29.5	1.5	1.5
C. P.	33.3	20.9	0.5	0.1	3.5	4.0	34.2	2.7	0.8
Berar	41.4	16.7	0.1	—	16.1	1.6	18.0	5.2	0.9
Assam	32.8	3.2	0.9	—	0.1	5.4	55.4	0.3	1.9
N. W. F. P.	36.5	0.6	1.5	0.1	0.2	3.3	52.9	1.2	3.7
Coorg	28.2	3.1	2.9	1.8	4.0	15.7	39.3	0.3	4.7
Delhi	48.5	3.3	2.1	0.2	0.2	5.7	35.1	1.8	3.1

EXPENDITURE

PROVINCES	Education	Medical	Civil works	Refunds and drawbacks	Administration (general establishments of local funds.	Cattle pound charges	Miscellaneous	Famine relief	Contributions	Other items
Madras	10.3	10.0	50.6	0.1	2.9	—	2.6	—	8.4	15.1
Bombay	38.6	4.5	46.6	—	2.3	0.1	1.3	0.1	2.9	3.6
Bengal	25.3	5.9	53.7	—	3.3	0.4	0.3	—	0.5	10.6
United Provinces	31.7	12.5	45.2	—	2.7	2.0	0.1	—	2.2	3.6
Punjab	23.7	7.8	41.4	—	2.9	1.1	1.0	—	13.6	8.5
Bihar and Orissa	17.1	6.4	56.3	—	2.8	0.3	0.3	—	1.4	15.4
Central Provinces	30.0	6.3	30.0	—	3.8	6.3	0.3	—	1.0	19.3
Berar	31.7	8.4	37.8	—	3.8	3.2	0.2	—	4.6	10.3
Assam	26.4	8.7	57.8	0.2	1.5	—	0.9	—	1.6	2.9
N.W.F.P.	30.0	12.5	34.5	—	3.8	0.1	0.3	—	7.5	11.3
Coorg	21.8	11.6	51.3	—	2.3	1.8	1.4	—	1.2	8.6
Delhi	24.4	9.2	51.0	—	3.5	1.3	0.9	—	3.3	6.4

61. **Power to raise cesses.** On the recommendation of the Commission that district boards should not be empowered to raise the land cess beyond one anna in the rupee on the rental value, the Government of India did not consider it necessary to make any pronouncement, as under the conditions then obtaining any proposal to raise the limit imposed by the law required the previous sanction of the Government of India.

62. **Control over district board budgets.** The Commission recommended that rural boards should be given full power to pass their budgets subject only to the maintenance of a prescribed minimum balance. This procedure was already in force in the province of Bombay. Other provincial governments were not prepared to accede to this complete removal of restrictions, although some of them proposed some relaxation in the existing rules. The Government of India were of the view that the restrictions on the powers of the boards should gradually be relaxed with due regard to local conditions and requirements. The fact that an official was almost invariably president of a rural board and that powers of inspection and control by certain officers of Government were provided under the Acts relating to rural boards should, ordinarily, they thought, be sufficient safeguards against gross inefficiency or mismanagement.

63. **Control over sanctions to works.** The Government of India were unable to agree to the proposal of the Commission that the restrictions on rural boards with regard to estimates for public works should be removed. They, however, accepted the view of the Commission that in districts where there were sufficient works to justify the special appointment of a trained engineer a district board which desired to entertain such an officer and could afford to pay him an adequate salary should be permitted to do so.

64. **Control of district boards over establishments.** In regard to control over establishments, the Government of India were of the same opinion as in the case of municipalities.

65. **Functions and finances of village panchayats.** In regard to functions and finances of panchayats the view of the Government of India were briefly as follows:—

(1) Experiments should be made in selected villages or area larger than a village, where the people in general agreed.

(2) Legislation, where necessary, should be permissive and general. The powers and duties of panchayats, whether administrative or judicial, need not and, indeed, should not, be identical in every village.

(3) In areas where it was considered desirable to confer judicial as well as administrative functions upon panchayats the same body should exercise both functions.

(4) Existing village administrative committees, such as village sanitation and education committees, should be merged in the village panchayats where these were established.

(5) The jurisdiction of panchayats in judicial cases should ordinarily be permissive, but in order to provide inducement to litigants reasonable facilities might be allowed to persons wishing to have their cases decided by panchayats. For instance, court fees, if levied, should be small, technicalities in procedure should be avoided and, possibly, a speedier execution of decrees permitted.

(6) Powers of permissive taxation might be conferred on panchayats, where desired; subject to the control of the local Government or Administration, but the development of the panchayat system should not be prejudiced by an excessive association with taxation.

(7) The relations of panchayats on the administrative side with other administrative bodies should be clearly defined. If they were financed by district or sub-district boards, there could be no objection to some supervision by such boards.

66. **The Declaration of 20th August, 1917.** After that came the declaration of 20th August, 1917 regarding the future policy of constitutional advance in India. In commenting on this pronouncement, Lord Chelmsford explained in the Indian Legislative Council on 5th September 1917, that the first road along which advance could be made towards the progressive realisation of responsible government in India was in the domain of local self-government. To make local self-government really representative and responsible the Montagu Chelmsford Report on Indian Constitutional Reforms, dated April 22, 1918 suggested the following formula :

> " There should be, as far as possible, complete* popular control in local bodies, and the largest possible independence for them of outside control."

67. **The Montagu-Chelmsford Report.** The recommendations of the Montague-Chelmsford Report as regards the financial aspects of local self-government† were briefly as follows. In regard to municipalities, the Report accepted the recommendation of the Decentralisation Commission that municipalities should have full liberty to impose and alter taxation within the limits laid down by law, but that where the law prescribed no maximum rate, the sanction of an outside authority should be required to any increase. In the case of indebted municipalities the sanction of higher authority should still be obtained before altering a tax. The same power should be given to rural boards by allowing them to levy rates and fees within the limits of the existing Acts. Wherever a board paid for a service it should control such service ; and where it was expedient that control should be largely centred in the hands of Government, the service should be provincialised. If, for example, a board provided for civil works or medical relief, it ought, subject to such general principles as the Government might prescribe to have real control over the funds which it provided and not be subject to the costant dictation, in matters of detail, of government departments. Similarly, provincial governments should give boards a free hand with their budgets subject to the maintenance of a minimum stauding balance, with the necessary reservations in the case of indebtedness or against gross default. The government should discard the system of requiring local bodies to devote fixed proportions of their revenues to particular objects of expenditure and should rely on retaining powers of intervention from outside in cases of gross neglect or disregard. Local bodies should also be given control over their establishments except in regard to certain special officers as recommended by the Decentralisation Commission. The accepted policy should be to allow the boards to profit by their own mistakes and to interfere only in cases of gross mismanagement.

68. In regard to village panchayats, the Report said that the prospect of their successful development must depend very largely on local conditions, and that the functions and powers to be allotted to them must vary accordingly. But where the system proved a success, they might be endowed with civil and criminal jurisdiction in petty cases, some administrative powers as regards sanitation and education, and permissive powers of imposing a local rate. They expressed the hope that, wher ever possible, an effective beginning should be made.

69. **Government of India Resolution of May, 1918.** In their resolution dated 16th May, 1918, the Government of India again reviewed the question of

*Paragraph 188 of the Report on Indian Constitutional Reforms, 1918.

†Paragraphs 192 to 198 of Report on Indion Constitutional Reforms, 1918.

local self-government in the light of the declaration of 20th August 1917. They were of the view that in order to give effect to the new policy local bodies should be as representative as possible of the people whose affairs they were called on to administer, their authority in the matters entrusted to them should be real and not nominal, and they should not be subject to unnecessary control, but should learn by making mistakes and profiting by them. The views contained in the Resolution of 1915 were liberalised accordingly to the following extent :—

(1) As regards powers of taxation of municipal boards, the Government of India in their Resolution of 1915 expressed general sympathy with the Decentralisation Commission's recommendations. They thought, however, that power to vary any tax might be reserved by such provincial governments as were unable to accept in full the recommendations of the Commission and that in the case of indebted municipalities the previous sanction of higher authority should be required to any alteration of taxation. The suggested proviso that provincial governments should have power to vary any tax practically rendered the general principle nugatory, as it enabled provincial governments to decline to act upon it. The Government of India, on reconsideration, were of the view that this proviso should be given up in the case of boards which contain substantial elected majorities. As regards the further proviso with regard to indebted municipalities, the Government of India were of the view that it was undoubtedly sound. Where Government had lent money to a municipality or guaranteed repayment of its loans, the sanction of Government should obviously be required to any alteration in taxation which might reduce the municipality's resources. Subject to this proviso, the Government of India considered it most important that municipal boards should be allowed to vary taxation in the manner proposed by the Commission.

(2) As regards powers of taxation of district boards, the Decentralisation Commission held that district boards should not be empowered to raise the land cess beyond the then existing limits. The Government of India in their Resolution of 1915 did not consider it necessary to make any pronouncement on the subject. Under the general principle indicated above in respect of municipalities the Government of India, on reconsideration, laid down a somewhat similar policy. Where no limit was imposed by law on the rate of the cess, a change in the rate at which the cess is levied should need the sanction of outside authority but where a limit was imposed a rural board should be at liberty to vary the rate at which the cess is levied within the limits imposed by law without the interference of outside authority.

(3) In the matter of control of services paid for by local bodies, the Decentralisation Commission proposed that, if a municipal or rural board had to pay for a service, it should control it ; and that, where it was expedient that the control should be largely in the hands of Government, the service should be a provincial one. The Government of India, though not prepared to accept the proposal in full, declared in their Resolution of 1915 that they approved of it in a somewhat modified form. They considered that charges should be remitted in cases where a local body contributed to Government for services inherent in the duty of supervision and control by Government officers or services which could not expediently be performed except by Government agency. For example, Government might properly cease to charge for clerical establishments in the offices of supervision and control or for the collection of district cesses which it was clearly expedient to realise

along with the Government revenue. The Government of India, on reconsideration, were of opinion that in this matter it would be well to go the whole way with the Commission, in accordance with the general principle that if local bodies have to raise funds for any particular object they should have the control of those funds. If a board is to provide, for instance, for civil works or medical relief, it ought, subject to such general principles as the Government may prescribe, to have real control over the funds thus provided, and should not be under the constant dictation of government departments in matters of detail.

(4) As regards the power over budgets of local bodies, the Decentralisation Commission recommended that municipalities should have a free hand with regard to their budgets. The only check required should, in their opinion, be the maintenance of a minimum standing balance to be prescribed by the provincial governments. They acknowledged that relaxation of control might lead to mismanagement but they were of opinion that municipal bodies could attain adequate financial responsibility only by the exercise of such powers and by having to bear the consequences of their errors. Further check would be provided by the control which provincial governments would exercise over loans and by the power which should be reserved to compel a municipality to discharge its duties in cases of default. In dealing with these proposals in their Resolution of 1915 the Government of India, while introducing exceptions suggested by various provincial governments, declared that, though they would accept these reservations for the present, they nevertheless regarded the recommendations of the Commission as expressing a policy to be steadily kept in view and gradually realised. The Government of India, on reconsideration, expressed the desire that provincial governments should make every effort to attain the full realisation of the recommendations in question as soon as possible.

(5) A similar recommendation was made by the Decentralisation Commission in respect of rural boards, and the Government of India in their Resolution of 1915 considered that the restrictions on the powers of these boards with regard to the general principle of budget expenditure should be gradually relaxed with due regard to local conditions and requirements ; the fact that an official would almost invariably be the chairman and that powers of inspection and control were retained by Government being sufficient safeguards against gross mismanagement. In this case, as in that of municipalities, the Government of India expressed the desire that the recommendations of the Commission should be realised as soon as possible, subject only, as in the case of municipalities, to control in the case of rural boards which were indebted to Government and in cases of gross default.

(6) As regards the specification of income and earmarking of grants the Government of India endorsed the recommendation made in the Decentralisation Commission's Report that the system of requiring local bodies to devote fixed portions of their revenues to particular objects of expenditure should be done away with as unduly limiting their freedom of action, subject, as indicated by the Commission to outside intervention in the cases of grave neglect or disregard. If the Government gave a grant for a particular object, the money must, of course, be supplied thereto, but the Government of India endorsed the Commission's recommendation that grants-in-aid should normally take

the form of a lump grant or a percentage contribution towards specific services rather than be more definitely earmarked. If again, funds were raised locally for particular objects, they must necessarily be applied to those objects; but otherwise, the general principle laid down by the Commission was one which the Government of India wished to see ordinarily observed.

(7) In regard to sanction for works, the Decentralisation Commission proposed that existing restrictions on municipalities which required outside sanction for works estimated to cost more than a certain amount should be removed, but that Government should scrutinize and sanction estimates of projects to be carried out from loan funds. In their Resolution of 1915 the Government of India observed that the majority of the provincial governments were prepared to relax the existing rules in the direction of giving more freedom to municipal boards, and the Government of India expressed themselves in favour of extended freedom subject, where necessary, to proper precautions against extravagant and ill-considered projects.

With reference to a similar recommendation made by the Decentralisation Commission in respect of rural boards the Government of India in their Resolution of 1915 expressed the opinion that the grant to rural boards of full powers in the allotment of funds and in the passing of estimates could not for the present at least be conceded, but the extent of the necessary financial control might depend In the case of rural boards on the competence of the staff employed, and where this varied it would not be desirable to lay down hard and fast rules for the whole of a province. The Government of India still adhered to the views expressed by them in 1915, but they desired to go somewhat beyond the general pronouncement then made and suggested that provincial governments, allowing for the necessarily different circumstances of different boards, should make a material advance in the direction of the proposal made by the Decentralisation Commission. They thought that it might be found convenient to arrange for this advance by a classification of bodies according to the character of their local technical staff, and to divide them into classes accordingly as sanction was not required, or was required, in the case of works whose cost was calculated to exceed certain specified amounts.

(8) In the matter of control over establishments of local bodies, it was also recommended by the Decentralisation Commission that the degree of outside control over municipal establishments should be relaxed, but that the appointments of municipal secretaries or other chief executive officers, of engineers and health officers, where these existed, should require the sanction of the provincial government in the case of cities and of the Commissioner elsewhere, and that the same sanction should berequired for any alteration in the emoluments of these posts and for the appointment and dismissal of the occupants. As regards other appointment, the Commission proposed that the provincial government should lay down for municipal boards general rules in respect to such matters as leave, acting and travelling allowances, pensions or provident funds and maximum salaries, and that their sanction should be required for any deviation therefrom. The system recommended by the Commission was already substantially in force in Bombay, and almost all the provincial governments expressed their willingness to relax outside control over the appoint-

ment of the staff employed by local bodies. The Government of India, on reconsideration, were of opinion that steps should be taken to carry out the general recommendations of the Commission in respect of municipalities; and that as regards rural boards, for which the Commission made similar recommendation, similar action should be taken. They considered, moreover, that the requirements of Government sanction to the appointment and dismissal of the special officers above mentioned might properly be accompanied by the right on the part of Government to require their dismissal in cases of proved incompetence.

70. So far as village panchayats were concerned, the Government of India Resolution of 1918 looked upon them not as mere mechanical adjuncts of local self-government but as associations designed to develop village corporate life on the basis of the intimacy existing between the inhabitants, who had not only common civic interests, but were also kept together by ties of tradition and of blood. The need for making an effective beginning in the field was also impressed on provincial governments. It was suggested.

(*a*) that village officials should be associated with panchayats, other members being chosen by informal election by the villagers,

(*b*) that their function should be to look after village sanitation, village education and petty litigation, both civil and criminal,

(*c*) that it should be permissible, though not as the Decentralisation Commission suggested universally necessary, that the panchayat should receive some portion of the land cess raised in their village. The panchayat should also have voluntary powers of supplementary taxation, the proceeds of which would be devoted to the special purpose or purposes for which the tax was levied.

71. **The Simon Commission Report.** With the coming into force of the Government of India Act, 1919, local self-government became a transferred subject. From 1921, therefore, the implementation of the policy and principles formulated in the Resolution of May 1918 devolved on elected Ministers and the Government of India ceased to issue any official instructions to provincial governments. Under the Scheduled Taxes Rules, the taxes which could be imposed by local bodies were separated from those which could be imposed for provincial purposes. A detailed reference to these rules will be found in the chapter on powers of taxation. A number of Acts relating to local self-government were passed soon after the inauguration of the Reforms. In November 1922 an Act was passed in the United Provinces (Act X of 1922) which conferred on district boards the power to impose taxes on circumstances and property and to increase the local rate. The general position relating to municipal finance when the Simon Commission dealt with the subject* is given in paragraph 345 of their Report, Vol. I in the following terms:

> "Municipalities are given a wide choice in the form of the taxes which they may levy. Octroi duties, terminal taxes, taxes on personal income, fixed property, professions and vehicles, have all been utilised, while for particular services, such as education and water supply, special taxes or cesses are imposed. The Government's control in financial matters is limited generally to cases in which the interests of the general public call for special protection. It has the right to alter a municipal budget, if it considers that due provision has not been made for

* [The report is dated May 27, 1930].

> loan charges and for the maintenance of a working balance, and it may intervene in the administration of a council by way of preventing or initiating action in matters affecting human life, health, safety or public tranquility. But these powers have been very infrequently exercised."

72. The functions of district boards were very much the same as those of municipalities, after allowing for the different conditions of town and country, and the powers of control and intervention by the provincial governments were similar. The finances of rural authorities are dealt with in paragraph 348 of the Simon Commission Report Vol. I, in the following terms :—

> "The main source of revenue of rural authorities is a tax or cess levied on the annual value of land and collected with the land tax, though this may be, and often is, supplemented by taxes on companies and professional men and by tolls on vehicles. A very large proportion of the revenue of these authorities, however, consists of subventions from the provincial governments. These are given not only as grants-in-aid for particular services, but not infrequently in the form of capital sums for the provision of works of construction."

73. As regards village panchayats, their functions at the time the Simon Commission reported were :—

(1) to look after such matters as walls and sanitation ;

(2) to look after minor roads and management of schools and dispensaries and

(3) in Madras also village forests and irrigation works.

74. In some provinces, village panchayats were also given power to deal with petty civil and criminal cases. Despite great efforts to establish those village authorities, the Simon Commission observed that it had not proved possible to progress very rapidly. Development had gone further in the United Provinces, Bengal and Madras. Outside these provinces, the movement was completely in its infancy. The common obstacle was the refusal of the villagers to have anything to do with the constituting of a fresh taxing authority.

75. As against the grant of freedom stressed in the Government of India Resolution of 6th May 1918, the Simon Commission stressed the need for control by the provincial governments over local self-government authorities. They pointed out that in Great Britain the state of efficiency of local government was largely due to ever increasing pressure by the departments of the central government. "By numerous administrative devices, by inspection, by audit, by the giving of grants-in-aid on conditions ensuring efficiency and by insisting on standards of competence in the municipal staff, the local Government Board and its successor, the Ministry of Health, have steadily raised the standard of administration in our local authorities....." It is significant that where, as in Madras, the authority at the headquarters of the province has made use of a system of specifically earmarked grants-in-aid to keep a controlling hand on district board administration, the fall in efficiency has been far less."

76. In relation to the financial difficulties of local bodies the remarks of the Simon Commission have great force even to this day and are worth quoting :

> "It is a commonplace of administration in India that financial resources are generally quite inadequate to meet needs and this is specially true of local self-government. Undoubtedly one of the

reasons for the failure to develop a trained municipal personnel is the poverty of the municipalities and the district boards. But it is not only actual poverty which cramps their resources but the reluctance of the elected members to impose local taxes. This is a feature by no means confined to India; indeed the willingness of a community to impose high taxation on itself for common needs is proof of a very advanced civic consciousness. In rural India, the method of financing district boards is, as we have seen, by an addition to the land tax. It is naturally difficult to get bodies composed of land-holders to increase the burden on themselves, and the tendancy is to refrain from adding increased cesses and to demand larger subsidies from the provincial government. The system of grants-in-aid has done much in our own country to stimulate the development of particular services, but such grants are generally made conditional on the imposition of adequate taxation and the acceptance of a considerable measure of central control by the local authorities themselves. In India, the giving of grants, often unconditionally, to local authorities has gone so far as to divorce control of policy from financial responsibility. In Bombay, government grants amounted to nearly 60 per cent. of the revenue of district boards.

While the rural authorities have the advantage of the machinery of revenue for the collection of their basic source of income, cess on land, municipalities adopt a variety of expedients for raising revenue. The most disturbing feature, however, is the failure to collect the direct taxes imposed. In Great Britain, a municipality expects to collect up to 98 or 99 per cent. of the rates imposed by it, and a drop in collection to 95 per cent. would be subject of very close enquiry. But in municipalities in India since the reforms, uncollected arrears have been mounting up to very large sums. This feature is referred to by almost every provincial government in reviewing the work of the municipalities, and it is clear that there is great laxity in this respect. Another very general criticism is directed to the prevalence of embezzlement by employees. This is clearly to some extent the result of the failure to pay salaries sufficiently high to secure trust-worthy officials. But it is also due to carelessness, want of system and inefficient supervision. Generally speaking, the management of the finances of local authorities has deteriorated since the Reforms, and this laxity is not adequately corrected by such powers of audit as the provincial governments possess."

77. **The Government of India Act 1935 and after.** With the inauguration of provincial autonomy in April 1937, local self-government received a further impetus and several Acts were passed by the Provincial Legislatures practically in every province with the object of widening the powers and functions of local bodies. With the achievement of independence, this process is still going on. The stress now is more on building from the bottom upwards by the establishment of village panchayats and endowing them with real powers.

78. Article 40 of the Constitution of India says that the State should take steps to organise village panchayats and endow them with such powers and authority as may be necessary to enable them to function as units of self-government. In every State that we visited, we found that village panchayat Acts had already been passed or new bills were under active consideration. It is understood that there are nearly 80,000 village panchayats functioning in the country today, 35,000 or a little less than half, are functioning in U. P. alone. The U. P. Government describe this scheme as a bold experiment in the realm of local self-

government. And so it really is. Much wider powers and duties have been assigned to these small institutions than were contemplated in the past. Elections to Gaon Sabhas were held in February 1949 and the U. P. Government provided them with necessary funds for the first six months to give them a start. There is in U. P. a big administrative organisation for inspection and supervision of these panchayats, for which a provision of Rs. 36,19,500 was made in the budget for the year 1950-51. An account of financial resources of village panchayats is given in a separate chapter of this report.

79. So far as the financial resources of municipalities and district boards are concerned no enlargement was made during this period and the taxes which local bodies levied after the coming into force of the Government of India Act 1935 were more or less the same as in the days of Lord Ripon. On the other hand, with a widening of functions there was a restriction of financial powers. The demarcation of taxation between provincial and local which prevailed during the entire period of the Montagu-Chelmsford reforms was done away with. Certain taxes such as the terminal tax, the taxes on trades, callings and professions and the tax on circumstances and property were subjected to new restrictions. Under the Government of India Act 1919,* terminal taxes on rail-borne goods and passengers were included in the provincial list. But with the grant of autonomy they were transferred to the central list. After April 1937, terminal taxes on goods and passengers could only be levied and collected by the Central Government, though the proceeds thereof were assignable to provinces. Those municipal boards which were already levying the terminal and pilgrim taxes before April 1937 were allowed, by virtue of the saving provided in section 143 (2) of the Government of India Act, to continue to levy either or both, as the case may be, until a provision to the contrary was made by the Central Legislature. They could not, however, increase the existing rates of terminal tax on any article, or add a new item to an existing schedule, with the result that the revenue from such taxes remained static over a series of years. Applications from local bodies for the levy of terminal tax and piligrim tax were as a rule refused by the Government of India, with the result that municipalities began to replace terminal taxes by octroi duties.

80. As regard taxes on trades, callings and professions, there was no restriction under the Acts of the various provincial legislatures on the powers of local bodies as to the amount of tax leviable by them, but by an amendment to the Government of India Act, 1935 their levy at an amount in excess of Rs. 50 per annum from any single assessee was prohibited by section 142-A of the Government of India Act read with the Professions Tax Limitation Act 1941, which was passed by the Central Legislature. Under the latter, the profession tax levied by the Calcutta Corporation, the Circumstances and Property Tax levied by certain municipalities in the U.P., the Profession Tax levied by the municipalities in C.P. & Berar and the tax on trades, professions and callings under sub-section 1 of section 123 of the Bengal Municipal Act were exempted. Otherwise, all profession taxes were subject to the limit of Rs. 50 per annum for any single assessee. This caused specially heavy losses to local bodies in Madras which were levying profession tax up to a maximum of Rs. 1,000 in the Madras Corporation and Rs. 550 per annum elsewhere. The Madras Government had to pay compensation of Rs. 12 lakhs per annum to local bodies affected by this change. Local bodies in other provinces had simply to reduce their income and received no compensation from their provincial governments.

81. So far as the powers of taxation were concerned, the provincial governments did not, as a rule, grant wider powers as recommended by the Decentralisation Commission and endorsed by the Government of India in their resolution of

*Terminal taxes on passengers are commonly known as pilgrim taxes.

16th May, 1918. Generally, every fresh proposal for taxation, for reduction or abolition of an existing tax continued to be subject to the previous sanction of the provincial government. Not only this but many of the provincial governments, finding perhaps that local bodies were unwilling to exercise such powers of taxation as they possessed, obtained through the legislature special powers to direct imposition of taxation in emergencies in the interest of public health and safety or to prevent grave detriment to the public interest. As practically every local body was dependent on grants-in-aid, the system was further strengthened and with this widening of the system of grants-in-aid greater scrutiny over the budgets of expenditure became inevitable. Provincial governments sometimes used this power of giving grants-in-aid to compel local bodies to do certain things or to abstain from doing certain others under the threat of with-holding grants-in-aid on failure to comply with their directions. In this manner they obtained control both over income and expenditure policies of the local bodies, which they did not possess prior to 1st April 1937. This tendency was augumented by the heavy rise in prices after world war II, when local bodies found it impossible to balance their budgets. They were forced to raise the scales of pay of their staff or grant dearness allowances to them and such increase of expenditure they could not meet without financial assistance from the provincial governments. The position, therefore, today is that in matters of finance the control of the provincial governments over local bodies is very substantial.

82. **Incidence of taxation and total income per capita.** The incidence of local taxation and total income per head of population for all local bodies for the year 1946-1947 is given in the statement below :—

STATEMENT SHOWING THE AGGREGATE POPULATION, TOTAL INCOME, INCOME FROM TAXATION AND PER CAPITA INCIDENCE OF CITY MUNICIPAL CORPORANIONS, MUNICIPALITIES AND DISTRICT BOARDS FOR THE YEAR 1946-47.

Description of local body	Number	Population	Total income from all sources	Income from taxation		Incidence per head of population		Remarks
				Amount	Percentage to the total income	Total income from all resources	Income from taxation	
			Rs.	Rs.		Rs. As. Ps.	Rs. As. Ps.	
1. City Municipal Corporations (1947-48)	3	4,755,547	123,521,810	89,242,505	72.24	25 15 7	18	
2. Municipalities ...	628	21,946,887	151,819,055	104,094,627	68.56	6 14 7	4 11 10	
3. District Boards ...	176	204,522,250	155,531,309	52,228,921	33.58	0 12 2	0 4 1	
Total ...	797	231,224,684	430,872,174	245,566,053	56.99	1 13 1	1 0 11	

It will be seen from this statement that the incidence of taxation for all local bodies taken together was as low as Rs. 1-0-11 per head of population. When we consider the income from all sources, the incidence is only slightly larger, *viz.*, Rs. 1-13-1.

From a report recently issued by the Economic Advisor to the Government of India on the National Income of the Indian Union Provinces in 1946-47, it appears that the total net national income was Rs. 5,580 crores. The total estimated population was 244·4 millions. This gives a per capita income of Rs. 228. The incidence of local taxation is, therefore, less than half per cent. of the per capita national income.

(a) City Corporations.

Incidence of taxation and income. The incidence of taxation and total income per capita in the three Corporations of Madras, Bombay and Calcutta from 1894-95 to 1947-48 is given below :—

Year	MADRAS		BOMBAY		CALCUTTA	
	Incidence of total income	Incidence of taxation	Incidence of total income	Incidence of taxation	Incidence of total income	Incidence of taxation
	Rs.	Rs.	Rs.	Rs.	Rs.	Rs.
1891-95	3 6 11	2 0 3	11 14 10	6 12 7	6 10 10	5 0 10
1907-08	5 0 6	2 11 8	12 5 5	10 14 7	8 9 6	6 1 5
1918-19	7 5 5	5 0 5	17 15 3	15 11 5	14 0 4	10 2 5
1932-26	13 1 0	7 10 6	26 1 1	23 2 8	19 0 5	15 1 7
1932-33	10 1 10	7 0 8	25 13 8	22 1 1	19 1 9	15 12 3
1935-36	11 3 7	7 1 2	27 14 5	22 5 1	21 2 0	17 8 0
1939-40	12 0 5	8 6 2	29 13 11	24 11 11	22 6 2	18 10 7
1940-41	10 11 7	7 9 7	23 1 15	19 13 7	22 3 8	18 5 0
1946-47	16 2 2	10 2 3	36 0 10	30 10 11	13 0 2	8 4 0
1947-48	20 0 8	10 15 0	44 6 5	36 2 6	19 12 11	11 7 3

(*N.B.* The sources of tax and non-tax revenue of the three Corporations are not identical).

It will be seen that the incidence of taxation is highest in Bombay City, next comes Calcutta and after that Madras. The incidence of taxation has increased five times during the period from 1894-95 to 1947-48 in Madras, nerly six time in Bombay and over two times in Calcutta. When we look to the total income the incidence is in the following order :—

Bombay,

Madras,

Calcutta.

Calcutta which occupied the second place in regard to incidence of taxation occupies the third place in regard to incidence of total income. This means that other sources of income are more highly developed in the Madras Corporation than in the Calcutta Corporation. The Bombay Corporation retains the first place both in regard to incidence of total income as well as of taxation.

The incidence of taxation in the City Corporations is naturally higher than in oth.. municipalities (as will be seen from the paragraph below) and consequently the standard of amenities provided is also much higher.

(b) Other Municipalities.

The incidence of taxation in other municipalities per head of population in 1946-47 was Rs. 4-11-10*

Figures for previous years are given below :—

Year	Incidence of taxation.		
	Rs.	As.	Ps.
1880-81	0	13	1
1887-88	0	14	1
1890-91	0	14	4
1895-96	1	1	5
1900-01 Pre-paration	1	3	4
1918-19	4	0	0
1921-22	4	9	11
1929-30	6	9	11
1931-32	5	8	8
1940-41*	4	0	6

The incidence shows an upward tendency. Between the years 1900-01 and 1918-19 the incidence increased four times. The rate of increase has since slackened and has not kept pace with the large increase in prices between the years 1938 and 1949.

The incidence of total income per head of population for other municipalities is given in the statement below :—

*Figures relate to India as after partition.

INCIDENCE OF TOTAL INCOME PER HEAD OF THE POPULATION OF MUNICIPALITIES IN INDIA

Year	All India	Madras	Bombay	Benga	Uttar Pradesh	Punjab	Bihar	Orissa	Madhya Pradesh	Assam	Del hi	Ajmer Merwara	Coorg
	Rs. as. ps	Rs. as. ps	Rs. as. ps	Rs. as. ps	Rs. as. ps	Rs. as. ps	Rs. as. ps	Rs. as. ps	Rs. as. ps	Rs. as. ps	Rs. as. ps	Rs. as. ps	Rs. as. ps
1884-85	0-9-2	1-5-2	1-9-5	1-0-5	0-10-7	1-4-10	Included in Bengal		1-7-8	1-10-5			
1894-95		1-11-8	2-11-3	1-7-6	1-15-	2-9-3			2-6-6	2-6-7			
1907-08		1-9-6	3-6-5	1-15-3	2-1-11	2-14-8			2-5-10	2-11-5			
1918-19	6-1-3	3-10-3	5-3-3	3-3-8	3-14-5	6-7-0	2-13-3	Included in Bihar	5-12-10	4-10-0			
1925-26	8-8-9	4-2-6	8-7-6	3-12-4	4-8-1	7-5-0	3-0-4		4-9-3	5-11-2			
1927-28	8-14-7	6-13-9	8-9-11	3-15-3	5-6-0	7-6-5	2-13-4		6-14-3	6-9-10	6-9-4	4-1-10	4-4-5
1932-33	7-9-3	5-0-4	7-10-2	3-11-3	4-14-2	5-6-4	2 9-0		4-13-4	5-7-2	7-10-10	4-0-10	3-11-9
1935-36	8-3-7	5-5-8	7-15-5	3-15-2	5-2-1	6-9-2	3-0-11		4-11-7	5-12-6	14-7-3	4-13-3	3-13-9
1938-39	8-6-2	6-7-8	7-9-1	4-7-0	5-6-9	6-4-4	2-15-1	3-6-8	4-14-7	6-0-2	15-6-9	4-10-3	3-14-4
1939-40	8-7-0	6-13-11	7-8-1	4-2-6	5-6-6	6-1-4	2-12-4	3-4-11	5-2-3	6-3-5	15-4-6	4-8-4	4-7-8
1940-41	8-4-8	7-1-5	7-12-2	4-8-11	5-12-2	6-3-8	3-4-11	3-11-3	. .	4-9-5	11-8-2	3-12-9	4-1-0
1946-47	6-14-7	10-9-0	8-0-0	5-1-9	9-2-10	5-3-11	4-13-0	8-6-2	9 -8 ,	6-13-5	—	—	5-15-3

Note. (a)—The all India figures from 1884-85 to 1940-41 are in respect of undivided India as given in the Statistical Abstract for British India. The figures for 1946-47 are in respect of partitioned India calculated from statistics furnished by State Governments.

(b) Similarly the figures from 1884-85 to 1940-41 are in respect of the undivided Provinces of Bengal and Punjab. The figures for 1946-47 are in respect of the States of West Bengal and Punjab (I).

It will be seen that the all-India incidence of total income in municipalities (other than Corporations) per head of population is Rs. 6-14-7. As the incidence of taxation per capita is Rs. 4-11-10, this means that two-thirds of the total income is drived from taxation and one-third from other sources, such as properties, commercial undertakings, Government grants, etc. The proportion of two-thirds from taxation cannot be considered to be low, taking all the circumstances of the Indian population into account.

The incidence of municipal taxation in the major states of India for the period 1884-85 to 1946-47 is given in the statement below :—

INCIDENCE OF MUNICIPAL TAXATION PER CAPITA IN THE DIFFERENT STATES OF INDIA

Year	All India	Madras	Bombay	West Bengal	Uttar Pradesh	Punjab	Bihar	Orissa	Madhya Pradesh	Assam	Delhi	Ajmer Merwara	Coorg
	Rs. as. ps.	Rs. as. ps.	Rs. as. ps.	Rs. as. ps.	Rs. as. ps.	Rs. as. ps.	Rs. as. ps.	Rs. as. ps.	Rs. as. ps.	Rs. as. ps.	Rs. as. ps.	Rs. as. ps.	Rs. as. ps.
1884-85	0-21-0	0-12-0	1- 3-5	0-12-0	0-10-1	1- 1-8	Included in Bengal.		1- 1-0	0-11-3			
1894-95		0-13-9	1-10-8	0-13-7	1- 0-7	1-13-5			1- 5-5	1- 2-1			
1907-08		1- 3-9	1-14 9	1- 7-5	1- 9-9	1-14-9			1- 9-6	1- 7-5			
1918-19	4- 0-0	1-15-0	3- 4-1	2- 9-1	2- 3-0	3- 5-7	1- 8-9	Included in Bihar.	2- 8-7	2-11-			
1925-26	6- 0-6	2- 3-3	5-11-6	3- 1-5	3- 7-7	4- 2-7	2- 2-0		2-15-9	3- 5-5			
1927-28	6- 4-3	2-10-6	5-13-0	3- 4-0	3 -11-0	4- 4-1	2- 1-8		3-15-4	3-14-3	- 8-1	2-11-9	-11-8
1932-33	5- 8-2	2- 5-9	5-10-7	2-15-1	3- 5-9	3- 2-9	1-15-1		3- 3-11	3-10-11	- 9-0	2-14-3	3-4
1935-36	5-14-5	3- 4-1	6- 0-2	3- 4-6	3- 8-1	4- 3-6	1-14-7		3- 5-11	3-13-3	9-14-6	3- 4-11	
1938-39	9- 2-0	3 -15-1	5-10-4	3- 7-11	3-10-2	3-14-6	1-14-7	... 2- 1-7	4-14-7	6- 0-2	11- 3-1	3- 4-10	- 0-7
1939-40	6- 3-6	4	5-11-1	3- 6-0	-10-1	3-14-1	2-12-4	3- 4-11	3- 9-3	3-14-9	11- 5-11	3- 2- 2	2-10-9
1940-41	6 - 1-4	4- 4-4	5- .	3-10-4	3-14-7	3-15-3	2- 3-5	- 2-0	2- 4-9	2-13-9	8 - 5-10	2- 9- 7	1-10-5
1946-47	4-11-10	3 -15-10	5-15-6	3- 7-8	6- 1-4	3-10-6	2-12-0	2- 6-6	6- 1-3	3- 9-9			3- 6-5

Note. (*a*) The all India figures from 1884-85 to 1940-41 are in respect of undivided India as given in the Statistical Abstract for British India. The figures for 1946-47 are in respect of partitioned India calculated from statistics furnished by State Governments.

(*b*) Similarly the figures from 1884-85 to 1940-41 are in respect of the undivided Provinces of Bengal and Punjab. The figures for 1946-47 are in respect of the States of West Bengal and Punjab (I).

It will be seen from the above statement that the growth of municipal taxation has been as under:—

(1) Madras, with an incidence of annas twelve per head of population in 1884-85, which was lower than Bombay, Punjab and Madhya Pradesh, has improved its position very considerably and attained an incidence of Rs. 6-15-10 in 1946-47.

(2) Bombay, which had the highest incidence of Rs 1-3-5 per head of population in 1884-85, attined an incidence of Rs 5-15-6 in 1946-47.

(3) West Bengal, whith an incidence of annas 12 in 1884-85, the same as Madras, had in 1946 47 an incidence of only Rs. 3-7-8, which is lower than most other provinces.

(4) Uttar Pradesh, with an incidence of 0-10-1 in 1884-85, the lowest of all provinces for the year, shot up to Rs. 6-1-4 in 1946-47.

(5) Punjab more than trebled its incidence from Rs. 1-1-8 in 1884-85 to 3-10-6 in 1946-47.

(6) Bihar had an incidence of Rs. 1-8-9 in 1918-19. In 1946-47 this increased to Rs. 2-12-0, or slightly less than double. It must be considered to be among the lightly taxed provinces of the country.

(7) Orissa, a comparatively newer and less developed province, had an incidence of Rs. 2-2-0 per head in 1940-41, which increased slightly to Rs. 2-6-6 in 1946-47. It must be graded with Bihar, among the lightly taxed provinces.

(8) Madhya Pradesh had an incidence of Rs. 1-1-0 in 1884-85, which at the time was high. It has maintained its positi on with an incidence of Rs. 6-1-3 in 1946-47, which is second only to Madras.

(9) Assam. In 1884-85, it had an incidence of 0-11-3. In 1946-47, this figure rose to Rs. 3-9-9 which is slightly below Punjab.

(c) District Boards.

The total number of district boards in India (partitioned) was 176 in 1947, and their population was 204,522,250. The total incom from taxasion of these boards was Rs. 52,228,921 which gives an incidence of Rs. 0-4-1, per head of papulation.

The incidence of total income per head of population was Rs. 0-12-2 or about three times larger. This means that the income of district boards from other sources, chiefly government grants, is about twice the income from taxation.

The incidence of taxation of district boards from 1890 onwards is given below:—

Year	Incidence of taxation		
	Rs.	As.	Ps.
1890	0	1	5
1896	0	1	5
1909	0	1	7
1922	0	2	10
1932	0	2	3
1939	0	3	4
1942	0	3	3
1947	0	4	1

It will be seen from the above figures that the incidence of district board taxation is only four annas per head of population as against Rs. 4-11-10 for municipalities, or about one-sixteenth of the latter. The main tax income of district boards is the land cess. As it is in several provinces connected with the land revenue, which itself remains static for periods of thirty to forty years, it is not capable of expansion except when the rate itself is increased. The district boards with a population of 204 millions have an income of only Rs. 155,500,000 while district municipalities with a population of 21 millions, or about one-tenth of the rural population, have an income of Rs. 151,800,000 or very much the same as for all the district boards. When the services which the municipalities are able to render with their present scale of income is considered totally inadequate to meet modern requirements, it will be readily understood that the conveniences provided by rural boards for their population must be far more inadequate. Some idea of the prevailing condition in rural areas in regard to the provision of civic amenities is given later.

The part which Government grants play in district board finance will be apparent from the figures for each major State given below :—

		Percentage of total income
Madras	1889-90	5.13
	1925-26	30.64
	1946-47	30.33
Bombay	1889-90	10.18
	1925-26	58.72
	1944-45	62.25
Bengal	1889-90	17.51
	1925-29	58.72
	1946-47	55.18
U.P.	1889-90	32.13
	1925-26	41.95
	1946-47	59.32
Punjab	1889-90	0.50
	1925-26	39.11
	1946-47	55.46
Bihar	1947-48	46.44
Orissa	1646-47	68.006
Madhya Pradesh	1889-90	11.00
	1925-26	44.20
	1946-47	87.33
Assam	1889-90	41.25
	1925-26	57.89
	1946-47	52.21

It will be seen that grants-in-aid have increased considerably in recent years and this gives Government considerable control in the shaping of policy.

The incidence of taxation per head of population of district boards in the major States of India will be gathered from the statement given below :—

INCIDENCE OF TAXATION PER HEAD OF THE POPULATION OF DISTRICT BOARDS IN THE MUNICIPALITIES OF INDIA

	All India	Madras	Bombay	Bengal	Utter Pradesh	Punjab	Bihar	Orissa	Madhya Pradesh	Assam
1889-90		0-2-7	0-2-0	0-0-11	0-0-9	0-2-0	included		0-0-6	0-1-8
1894-95		0-2-7	0-2-5	0-1-0	0-0-8	0-1-11	in		0-0-6*	0-2-1
1907-08		0-3-3	0-2-10	0-1-2	0-1-2	0-2-3	Bengal		0-1-4	0-1-3
1918-19	0-6-7	0-4-2	0-2-7	0-2-6	0-2-4	0-4-7	0-3-0	included	0-1-5	0-2-4
1925-26		0-4-9	0-5-1	0-2-9	0-2-9	0-4-11	0-3-10	in Bihar	0-2-8	0-2-3
1946-47	0-4-1	0-4-11	0-3-5	0-3-5	0-3-0	0-4-0	0-4-9	0-2-3	0-4-10	0-3-9

Note:— * This is the figure for the old Central Provinces only. The figure for Berar for this year is 0-1-9.

(1) The figures from 1889-90 to 1925-26 in respect of Bengal and Punjab are for the undivided Provinces. The figures for 1946-47 are in respect of the States of West Bengal and Punjab (I).

(2) The figure for 1907-08 in respect of Assam has marked a steep fall compared to the previous period of 1894-95 and compared to 1918-19 because the poorer tracts of Eastern Bengal also formed part of Assam during the period.

83. **Inadequacy of financial resources of local bodies.** From the above figures of incidence of taxation and total income per capita it will be obvious how inadequate are the financial resources at the disposal of local bodies. What services can a district board with an income of annas twelve per head provide for its population? To a certain extent this complaint of inadequacy of financial resources of local bodies is met with even in countries of the West. But there is all the difference in the world between inadequacy as it exists in this country and inadequacy as it exists in western countries. In the latter when they talk of inadequacy of financial resources they mean inadequacy in respect of public conveniences and luxuries. In this country, however, when we talk of inadequacy of financial resources we mean inadequacy in regard to the barest necessities of corporate life, such as roads, clean water supply, sanitation and medical relief.

84. **Elementary education.** In undivided India there were 6,55,892 villages at the census of 1941. The total population of these villages was 339,301,902. For this large population the total number of primary schools in 1947-48 was 1,14,602. This means, roughly, that there was one school for six villages, or, in other words, five out of six villages were without any primary school.

85. **Roads.** A very large number of our villages are not connected by road with any urban centre or railway station. Most of the existing village roads are fair weather roads, which, when the monsoon arrives, are turned into mud, slush, pools of dirty water and become unusable. There are few permanent bridges and culverts and consequently each nullah becomes an unsurmountable obstacle in the rainy season. We are paying heavily for not having enough good roads in our rural areas. The backward state of our agriculture and rural population is partly attributable to poor communications.

86. **Water supply.** Coming to water supply, which is a basic requirement of human life and an essential function of local bodies, the position is even worse. The Bhore Committee pointed out that the percentage of population, urban and rural, served with protected water supply is 6.6 in Madras, 7.3 in Bengal and 4.1 in Uttar Pradesh. In Orissa there are only two towns in which protected water supply has been provided. In the Punjab (undivided) the percentage of population served with protected water supply was 57.5 in urban areas. In the rural areas of this province, the proportion was only 0.8 percent.* The position has not much improved since the Bhore Committee reported. The information available regarding water supply facilities in villages is very incomplete, but such as it is, it reveals a highly unsatisfactory state of affairs. In Uttar Pradesh the Director of Public Health reports that the improvement of water supply in rural areas is a responsibility of district boards but for lack of funds very little has been done.

As regards the Punjab the table given below in respect of some of the districts shows how deplorable the position is in the following districts :—

District.	*No. of villages without clean water supply.*	*Population.*
Hissar	282	148,029
Rohtak	724	820,044
Karnal	22	17,796
Ambala	1,604	582,183
Kangra	35	89,301
Ferozepore	31	27,686
Gurdaspur	23	8,950

*Extract from the Report of the Health Survey and Development Committee, Volume II, paragraphs 23 and 24.

The cost of water supply is great and can generally be financed only out of loans. The initiative lies with the local bodies concerned. Government makes a grant-in-aid which varies from 33 to 50 per cent. But local bodies are in a position to find their share of the capital cost.

In Bombay the State Government, under a five year post-war programme (1947—52), has undertaken to provide wells entirely at Government cost in villages with inadequate drinking water supply facilities. Two thousand wells have already been completed under the scheme and two thousand six hundred are in course of construction and are expected to be completed during the current year and the next financial year. We are informed that the average cost to Government per well is roughly Rs. 5,000.

87. **Sanitation.** The development o the sewerage system in India has been very slow, even slower than the provision of protected water supply. Even in those towns which are provided with sewers, it by no means follows that all the latrines are connected to the sewers. In most States the number of public latrines in municipal areas is too small for the needs of the population.

At the time the Bhore Committee reported the number of sewered towns was as follows:—

Madras	3
Uttar Pradesh	5
Bengal (undivided)	8
Madhya Pradesh	1
Bihar	2

The total population living in areas normally served by sewers was only 7 million out of a total population of 300 million. There were indeed many cities of o 100,000 population without this elementary amenity and even where the underground system existed it often served only limited sections of the population.

88 The collection and disposal of excreta is a service obtaining in municipal town only, but by no means in all of them. In a number of even the larger cities this service is at present of a low standard. Night soil is removed in baskets and deposited along with other rubbish in enclosures situated in public places. These enclosures are cleared later and the night soil transported in special carts for the purpose. Sometimes these carts are in bad repair and leak on the road. The actual disposal of nightsoil is generally by trenching which in few municipalities receives adequate supervision.

89. In rural areas, with the exception of a few demonstration centres set up by Public Health Departments in certain States, it may be said as a board generalisation that no system of collection and disposal of excreta exists. In certain Panchayat and Union Board areas, a small number of latrines of a primitive type have been provided.

90. The collection and disposal of household refuse in most urban areas is unsatisfactory. The service is sometimes handed over to contractors who are mostly concerned with making profit and not rendering efficient service in the interests of the health of the community. In rural areas no attempt has on the whole been made for the collection and disposal of household refuse. Similarly with ragard to disposal of industrial wastes very little attention is given. Unsatisfactory disposal of such wastes affects directly in many cases the amenities of the neighbourhood. All these shortcomings are largely due to inadequacy of financial resources.

91. **Medical Relief.** The inadequacy of medical relief is borne out by the statement given below. The average population served in each province, as given in the Bhore Committee report, during 1942 by one medical institution (hospitals and dispensaries considered together) is shown below :—

Province	Average population served by a medical institution in 1942	
	Rural	Urban
1. Punjab (undivided)	30,925	15,188
2. Assam	44,562	172,962
3. Bengal (undivided)	37,996	19,730
4. Madras	42,672	28,496
5. Orissa	52,548	15,276
6. Bombay	34,927	17,127
7. Bihar	62,744	18,630
8. C.P. & Berar	66,008	11,379
9. Uttar Pradesh	105,626	17,668

It is obvious that no medical institution can serve such large population dispersed over a number of villages and towns and the number of medical institutions cannot be increased without increasing the financial resources of local bodies. The above table also brings out the disparity between the facilities provided to the rural population, as compared with urban, in the matter of medical relief.

92. During the course of evidence taken by the Committee, witness after witness gave expression to this grievance. It is not a new grievance but has continued ever since local bodies were brought into being. Sir Herbert Risley's evidence before the Decentralisation Commission itself is forty years old and the position continues more or less as it was at that time. State Governments also have given expression to this feeling. The Bombay Government, for instance, makes the following remarks:—

> "The financial position of most of the municipalities in this province is not satisfactory and there is a general complaint that the municipalities do not make adequate provision for water supply, roads, sanitation, medical relief, etc. It is a fact that for want of funds the municipalities are unable to spend as much as they should on obligatory items of expenditure like medical relief, construction and maintenance of roads, street lighting, sanitation and water supply."

93. In West Bengal water and lighting are provided only by about one-third of the total number of municipalities, due to lack of financial resources. The municipalities have no money for financing their health centres, no medicines for running their dispensaries and no money for repairing the roads.

94. The Government of Bihar is equally emphatic on this point, vide extract from their note given below :—

> "It is an admitted fact that the present financial resources of district boards in this province are too meagre for maintenance of the services with which they are entrusted at a standard of efficiency expected by the people. The needs of the people of rural areas who form the bulk of the population of the province have not received the attention they deserve, in matters of education, sanitation medical relief and communications, although the provincial government have been making fairly substantial grants-in-aid to district boards for each of these services. The inference clearly is that much more money than has been available to the district boards is necessary for expansion of these services which are of vital national importance. The present abnormal rise in the prices of building and other materials and in the wages of labourers, coupled with the demand for better pay and

allowances by all classes of employees, has added to the financial burden of these local bodies with the result that there has been no scope for any appreciable expansion in their activities. On the other hand, there has been deterioration in the maintenance of communications because the district boards cannot afford to meet the tremendous increase in the cost of maintenance of roads. The grants-in-aid available from the provincial revenues have not been sufficient to meet the requirements of the boards.

We feel therefore that some bold measures are necessary to rehabilitate the finances of the boards if any appreciable improvement is to be effected in the condition of their services."

95. The condition of district boards in Uttar Pradesh is equally deplorable. A recent conference of district board chairmen in that State passed unanimously a resolution to the effect that their finances had reached such a stage that it was not possible for them to take even one step forward. The incidence of income per capita in 1945-46 for district boards in U. P. was 0-9-2 as against municipalities with a per capita income of Rs. 8-6-0 in 1945-46 and Rs. 9-2-10 in 1946-47. District boards with ten times the population to serve have less income than municipalities, inspite of their receiving proportionately much larger grants from the State government.

96. In almost every State, there is a tendency to transfer functions from district boards to the State Governments in the field of elementary education, public health and communications. All these nation-building activities cost increasing sums of money every year. But the resources at the disposal of the local bodies are of a stationary character and consequently in sheer despair they agree to surrender their functions. Most of the district boards chairmen who appeared before us said that they were quite willing and ready to resume these functions if only they were placed in possession of adaquate funds.

97. We are of the opinion that wholesale transfer of functions from local bodies to State Governments is a retrograde step and should be avoided. Whatever be the criterion for demarcation of functions between the State Government and the local bodies the desperate financial plight of the latter should not be made a ground for reducing them to practical impotence. As some witnesses pointed out to us that by such transfer the government does not make any saving, as funds out of government revenues have to be provided for the service taken over, why then not make an adaquate grant-in-aid to the local body and let the service remain with it, as it should be.

98. It is hoped that in the new set-up local bodies will be used more and more as instruments of national policy and there will be a steady enlargement of their functions. In order that they may serve this purpose, they should be put in an effective position to do so. To take away their functions is not the proper remedy. The proper remedy is to provide them with adequate resources so that they may play their part in the execution of national policy.

99. We have in the preceding paragraphs invited attention to the chronic want of funds at the disposal of local bodies, but we should be failing in our duty if we omitted to draw attention to the other side of the picture, namely, the reluctance of local bodies generally to make use of their existing financial powers and resources to the fullest extent and to impose taxation even when the need for such a step was clearly admitted. There has been failure to assess taxes with impartiality and to collect them promptly. Financial maladministration has led to supersession of many municipalities, including some of the biggest in the country. It is also true that with the appointment of administrators, finacial irregularities have

decreased and assessment and collection figures have mounted up. Audit reports throw a flood of light on slackness of administration and slackness in assessment and collection. We deal with these matters in the following pages and it is our hope that the recommendations we have made may lead to some improvement in the existing state of affairs. But we are satisfied that the stopping of all such loopholes, irregularities and human weaknesses, though very necessary, will not be enough. The local bodies will still need larger resources and it is on this task that attention will have to be concentrated in the coming years.

CHAPTER III

FUNCTIONS AND FINANCIAL RESOURCES OF LOCAL BODIES.

100. The terms of reference of this Committee are confined purely to financial matters and have nothing to do with the functions of local bodies. But as finance is correlated with function, it is necessary to state what functions are assigned to local bodies in order to see whether the financial resources placed at their disposal for the discharge of those functions are, or not, adequate. So far as functions are concerned, there will be no recommendations and the survey will be purely of a factual nature.

101. There are two main principles regarding the functions which may be exercised by local authorities. One is that a local authority may do anything which it considers to be for the good of the community provided that it is not specifically forbidden by law or assigned by law to some other authority. The other is that no local authority may do anything which it is not definitely entitled to do by virtue of a statute.

102. A third principle, which is operative in the U.S.S.R. only, is that whereas by law there is nothing which is beyond the scope of any local authority's powers, its action may be over-ruled by any higher authority.

103. Germany is the outstanding example of the first principle. The United Kingdom illustrates the second. As most of the Acts constituting local bodies in India were passed in the days of British power, they follow the line of British enactments, *i.e.*, functions have been defined in the Acts and local bodies cannot do anything which is not covered by the specific terms of their respective constituent Acts.

104. Local bodies in India may be broadly placed into two classes, urban and rural. There are many Acts governing the constitution of these bodies all over the country and they are not all identically worded. It is, therefore, not easy to present a detailed picture of functions without repeating the various clauses of the enactments themselves, which would be very tedious besides being unprofitable. An attempt is, therefore, made below to give in general terms an idea of the functions of local bodies under certain main heads.

105. Urban bodies are mostly known as municipalities and functions of municipalities in most States are similar. In some Acts functions are divided into two classes, obligatory and discretionary, but not in others. Generally, their duties are to provide, maintain and promote the amenities of life for the civic population. Their activities fall generally under five heads ; namely, education, public health, sanitation, medical relief and public works.

106. **Education.** Under eduction their primary concern is the construction, maintenance or aiding of elementarys chools and not infrequently, of secondary schools. In some States, they are also principal agents for the introduction and promotion of the policy of compulsory primary education.

107. **Public Health and Sanitation.** In the sphere of public health they concern themselves with drainage, water-supply, conservancy, the control of epidemics and regulation of offensive and dangerous trades, vaccination and registration of births and deaths.

108. **Medical Relief.** To provide medical relief, they may establish and maintain or aid public hospitals and dispensaries including infectious hospitals.

109. **Public Works.** Public works under their control include the construction and maintenance of tramways, roads, bridges, culverts and public markets and slaughter houses, the removal of dangerous buildings, obstructions and projections in or upon streets and other public places, the lighting, waterings and cleansing of public streets, the establishment and maintenance of public gardens and parks, libraries, museums and picture galleries and the planting and maintenance of trees along the public highways. Municipalities also construct and maintain veterinary hospitals and fire brigades and hold fairs and industrial exhibitions.

110. **Rural Boards.** The principal local bodies operating in rural areas are district boards, which are charged generally with the adoption and promotion of measures calculated to improve the safety, health, comfort and convenience of the people living within their jurisdiction. The principal duties of rural boards are the construction and maintenance of roads, the planting of avenues along public highways, the provision and protection of the water-supply for human consumption and of canals, tanks etc., for irrigation for the use of cattle and generally for purposes connected with agriculture, the opening, aiding and maintaining hospitals, dispensaries and schools, the dissemination of sanitary knowledge, the establishment of rest houses, markets, etc., management of pounds and ferries and properties and institutions entrusted to them, the inception and control of relief works in time of famine, and the aiding of agriculture by the promotion of agricultural exhibitions or the establishment of model farms. The maintenance of veterinary hospitals is a duty common to boards in all States except in Madras; the provision of facilities for improving the breed of cattle is specially entrusted to them in some States. Vernacular education is their principal charge; but other forms of education are not outside their purview. The training of teachers, school inspection and the granting of scholarships are also included in their duties.

111. In relation to rural areas, village panchayats have begun to play a greater part in local affairs than in the British period. The functions and finances of village panchayats will form the object of study in a separate chapter.

112. In regard to functions, two very diverse tendencies are in operation at the present day. One is the tendency to transfer functions from local bodies to the State Government ; another is in the reverse direction, namely, to transfer fresh functions to local bodies which are not mentioned in the previous constituent enactments. As regards the first tendency, namely, transfer of functions from local bodies to the State Government, the information at the disposal of the Committee is not complete, but generally speaking the position is briefly as follows.

113. In the matter of primary education district boards in some States like Bombay and West Bengal have been more or less relieved of the responsibility of primary education and this responsibility has been placed on ad hoc boards constituted for the purpose and known as district school boards which are sometimes financed from sources which were previously at the disposal of district boards. In relation to public health and medical relief the tendency to provincialisation has become quite marked, principally as a result of the recommendations of the Health Survey, and Development Committee, popularly known as the Bhore Committee. Here also the position varies from State to State. Provincialisation has proceeded farther in some States than in others. For instance, in West Bengal, Government have provincialised the health services under local bodies with effect from 1st February, 1947. As a result of this, the entire health organisation in West Bengal is under a single authority, namely, the Director of Health Services operating through a unified executive staff.

114. In the State of Madras provincialisation is proceeding as part of a definite policy promulgated by the State Government. In the field of medical relief the policy of the Government is to take over five or six local fund or municipal medical institutions every year subject to availability of funds. There is no proposal to take over any functions relating to public health or elementary education. In the field of communications the present policy is that roads which are important from the through traffic point of view, namely, highways and major district roads including municipal stretches of such roads, should be maintained by government and other roads of local importance should be left with local bodies. The question whether any revision of this policy is necessary and whether all roads should he re-vested in the local bodies is separately under consideration.

115. In the Punjah, since the partition of the province, some hospitals have been taken over hy State Government from local hodies. But the local hodies concerned are required to contrihute to Government the amount of annual expenditure incurred on the unkeep of these hospitals during the two years prior to provincialisation. Provincialisation will thus bring no immediate relief to local bodies, except that they are saved from the liability to additional financial outlay on their expansion and improvement. In regard to roads, the policy of the State Government is to take over second class district hoard roads, specially those which are important in the interests of general communications as finance permit. Several roads have already been taken over in pursuance of this policy.

116. Trunk roads and national highways are under the control and management of the State Government. Municipalities are generally in charge of roads within the municipal area (excluding trunk roads and national highways) and district boards are responsihle only for roads of local importance and for the opening and improvement of communications in the interior and for construction and maintenance of village roads.

117. During the course of evidence it was pointed out to us that with this tendency to transfer of functions from district boards to the State Government and the policy of establishing panchayats in practically every important village, district boards will have very little work to do in the near future and the question of their abolition as a measure of economy was put to us. We understand that in Uttar Pradesh, where a large numher of village panchayats have been estahlished, the question of coordination of functions hetween district hoards and village panchayats has been referred to a Committee by the State Government. We only mention this point but express no opinion as we have to frame our recommendations on the basis of the existing structure of local bodies.

We now come to the second tendency mentioned above, namely, the enlargement of the functions of local hodies. There is generally a feeling that with the new forces released by the grant of independence, local bodies will have to take an increasing part in public affairs. A good instance of this tendency is to be found in the Bombay Provincial Municipal Corporations Act 1949. Section 63 of this Act enumerates the functions of the Corporations among which the following two new items find a place:—

(1) Provision of relief to destitute persons in times of famine and scarcity and the establishment and maintenance of relief works in such times;

(2) the construction and maintenance of residential quarters for the municipal conservancy staff.

118. In Madhya Pradesh, an even more striking experiment is being made. The district councils, which previously did the work of district boards in other States, have been abolished and in their place Janapadha Sabhas have been constituted. These Janapadha Sabhas have, at present, more or less the same functions as district boards in other States, but the intention is to decentralise and to transfer to the Janapadhas even such functions as are at present performed by the State Government. In this connection section 52 of the Central Provinces and Berar Local Government Act, 1948 will be read with interest :—

(1) "The Provincial Government may entrust either conditionally or unconditionally to the Janapada authority functions in relation to any matter specified in the schedule or in rolation to any other matter to which the executive authority of the province extends or in respect of which functions have been entrusted to the Provincial Government by the Dominion of India ; and the Janapada authority concerned shall be bound to perform these functions.

(2) Where, functions are entrusted the Janapada authority under this section the Janapada authority shall, in the discharge of those functions, act as agents for the Provincial Government.

(3) Where by virtue of this section powers and duties have been conferred or imposed as agency functions upon a Janapada authority, there shall be paid by the Provincial Government to the Janapada authority, such sum as may be determined by the Provincial Government in respect of any extra costs of administration incurred by the Janapada authority in connection with the exercise of these powers and duties.

(4) In so far as the Janapada authority is required to act under this section, it shall be under the general control of, and comply with such particular directions if any, as may from time to time be given to it by the Provincial Government in this behalf".

Such is generally the position in regard to functions of local bodies.

119. We now come to their financial resources. Financial resources at the disposal of local bodies are of two kinds :—

(1) Tax revenues and

(2) Non-Tax revenues.

Under tax revenues may be grouped the following heads :—

(1) taxes on property,

(2) taxes on trade,

(3) taxes on persons, and

(4) fees and licences.

Non-tax revenues generally comprise the following items :—

(1) rents of land, houses, rest houses and dak bungalows,

(2) sale proceeds of land and produce of land,

(3) fees and revenue from educational institutions,

(4) fees and revenue from medical institutions,

(5) fees and revenue from markets and slaughter houses,

(6) fees and revenue from commercial undertakings, such as motor buses, tramways, electric supply etc.

(7) interest on investments,

(8) Government grants.

Taxes on property fall under the following four classes :—

(1) tax on buildings and lands.

(2) cess on lands, generally with reference to their use for agricultural purposes.

(3) tax on unearned increment in connection with betterment schemes.

(4) tax in the shape of a surcharge on stamp duty on transfers of property.

120. Of these four classes item (1) is generally of importance in Madras, Bombay, West Bengal and Madhya Pradesh. Item (2) is levied in rural areas and is the main source of income of district boards. Item (3) is not of much importance financially. Betterment taxes are levied under the Bombay Town Planning Act 1915 and the Madras Town Planning Act, 1920 in the Bombay and Madras States respectively. Item (4) is levied only in the State of Madras and by the Calcutta Improvement Trust.

121. Taxes on trade are mostly octroi and terminal taxes and are important principally in Punjab, Utter Pradesh, Bombay and Madhya Pradesh. Tolls at one time used to be levied for the maintenance of roads in most parts of the country but have now been abolished, except in one or two States. District boards, derive some income from ferries within their jurisdiction.

122. The principal taxes on persons now levied by local bodies are the following :—

(1) taxes on circumstances and property in Madhya Pradesh, Utter Pradesh, Bihar and Orissa.

(2) tax on professions, trades, and callings in Bengal, Madras, Uttar Pradesh, Madhya Pradesh and Punjab.

(3) a tax on companies in Madras.

(4) a tax on pilgrims in Madras, Bombay, Uttar Pradesh, Madhya Pradesh, Bihar and Orissa.

(5) a terminal tax on passengers in Calcutta.

(6) a tax on motor bus passengers in Bihar.

123. Fees and licences are numerous and are levied by almost every municipality in India. They may be classified under three principal heads :—

(1) fees for specific services rendered by the municipality, such as private scavenging.

(2) fee which are partly in the nature of luxury taxes and partly for purposes of regulation, such as licences for music, vehicles, dogs and other animals.

(3) licence fees, the primary object of which is regulation, such as fees for offensive and dangerous trades.

124. In Bengal profession tax is also levied in the form of licence fees. Income from non-tax revenue is generally from markets and slaughter houses and rents of buildings and lands owned by the local bodies and it cannot be said that this is very important source of income, except in certain municipalities. The public utility undertakings consist mostly of tramways motor bus

services and electric supply. Tramways are of importance only in the three cities of Bombay, Calcutta and Madras. It is only in Bombay that they are run by the local body. In Calcutta the tramways are run by a private company. Motor bus transport is being provincialised in almost all States. Only a few local bodies are allowed to run bus services of their own. In Bombay, Simla and Ahmedabad the municipalities run bus services but so far as is known their financial results are not very striking. Electricity which is a good source of income is also being gradually provincialised. Where local bodies are allowed to run such concerns they make a good income from them. But there is no prospect of local bodies deriving a considerable part of their income from public utility undertakings as in some European countries like Germany, Holland etc.

125. The other main item of non-tax revenue is Government grants. Government grants play a very insignificant part in the finances of the City Corporations of Calcutta, Bombay and Madras, a slightly larger part in the finances of other municipalities, but a very large part in the finances of district boards.

126. The position described above is reflected in figures as follows :—

Table showing the income and percentage to total income under main heads of local bodies in India (1946-47 excluding village authorities)

State	Property tax	Octroi and terminal taxes	Local fund cess	Profession tax (including tax on circumstances & property tax on persons and haisiyat tax	Other taxes	Total rates and taxes	Government grants	Miscellaneous	Total ordinary income
Madras	2,37,56,847 (21. 6)	60,534 (. 05)	1,82,51,554 (16. 6)	19,70,957 (1. 7)	1,13,39,831 (10. 3)	5,53,79 523 (51. 9)	2,12,87,256 (19. 4)	3,28,58,526 (28. 7)	10,95,25,305
Bombay	5,65,58,489 (41. 6)	79,28,196 (5. 8)	61,74,191 (4. 5)	1,59,510 (. 01)	63,09,394 (4. 6)	7,70,29,780 56. 7)	78,16,787 (5. 7)	5,09,38,740 (37. 8)	13,57,85,307
West Bengal	2,66,20,601 (47. 1)		37,13,818 (6. 5)	21,76,436 (3. 8)	9,15,531 (1. 6)	3,34 ,26,386 (59. 2)	1,15,22,268 (20. 4)	1,14,57,157 (20. 4)	5,64,06,811
Uttar Pradesh	72,60,000 (10. 5)	1,73,60,000 (25. 2)	92,10,000 (13. 4)	3,30,000 (. 4)	26,20,000 (3. 8)	3,67,20,000 (53. 5)	2,27,70,000 (33. 1)	91,40,000 (11. 4)	6,86,30,000
Punjab (I)	9,37,024 (4. 8)	29,25,123 (15. 1)	25,78,351 (13. 3)	3,697 (.01)	14,85,034 (7. 7)	79,29,229 (41. 1)	69,41,031 (36)	44,04,954 (22. 9)	92,75,214
Bihar	37,50,463 (10. 86)		85,10,913 (24. 66)	92,336 (0.27)	26,66,657 (7. 7)	1,50,20,369 (43. 22)	1,39,56,468 (40. 43)	55,36,043 (16. 35)	3,45,12,880
Orissa	4,45,761 (11. 9)		6,53,906 (8. 5)	31,729 (. 42)	9,92,024 (13. 3)	18,23,420 (24. 12)	49,63,413 (66. 4)	6,84,689 (9. 4)	74,71,522
Madhya Pradesh	39,99,880 (13. 0)	36,21,924 (11. 77)	37,96,872 (12. 35)	1,27,602 (. 42)	33,47,188 (10.88	1,48,93,476 (48. 62)	52 56,378 (17. 0)	1,06,02,865 (34. 38)	3,07,52,710

CHAPTER IV

POWER OF TAXATION.

127. Prior to the enactment of the Government of India Act, 1919, local authorities, imposed certain taxes under legislation passed by the Provincial Legislative Councils, with the previous approval of the Government of India, but in several cases the imposition of such taxes was subject to general rules made or special orders issued by the Governor General in Council. Control by the Government of India over the powers of taxation of local authorities was thus almost unrestricted.

128. This position was completely changed by the Government of India Act, 1919, under which local self-government became a transferred subject and came under the control of elected ministers in each province. The control of the Government of India over the administration and finances of local bodies was abolished. Certain taxes were specified in statutory rules and included in what were known as the Scheduled Taxes. For the levy of a scheduled tax the sanction of the Governor General was not necessary. These scheduled taxes were divided into two classes :—

(1) Taxes which may be imposed by a Provincial Legislative Council without the previous sanction of the Governor-General for the purposes of the Local Government.

(2) Taxes which a Provincial Legislative Council may impose or authorise a local authority to impose for the purposes of such local authority.

129. We are concerned here with list (ii) only, in which were included the the following taxes :—

(1) A toll

(2) A tax on land or land values.

(3) A tax on buildings.

(4) A tax on vehicles or boats.

(5) A tax on animals.

(6) A tax on menials and domestic servants.

(7) An octroi.

(8) A terminal tax on goods imported into or exported from a local area, save where such tax is first imposed in a local area in which an octroi was not levied on or before the 6th July, 1917.

(9) A tax on trades, professions and callings.

(10) A tax on private markets.

(11) A tax imposed in return for services rendered, such as :—

(a) a water rate,

(b) a lighting rate.

(c) a scavenging, sanitary or sewage rate,

(d) a drainage tax.

(e) fees for the use of markets and other public conveniences.

In persuance of this authority, the taxes specified above were included in the provincial enactments in the list of the taxes which local bodies might impose for their own purposes. There are, of course, slight difference. For instance, in provinces like Madras, Bengal, Bihar and Assam, where octroi has not been allowed, there is no mention of such a levy in the Acts constituting local bodies. But, otherwise, the general structure of the list of taxes is the same.

130. The Scheduled Taxes Rules were repealed with the enactment of the Government of India Act, 1935, the Seventh Schedule to the Act of 1935 contained three lists of subjects : the Federal List, the Provincial List and the Concurrent List. Local authorities and the taxes which they might impose were not mentioned separately. List (ii) of the former Scheduled Taxes was included in the Provincial List, without any indication that the taxes in question were reserved for local authorities. This change has proved rather unfavourable for local authorities, as State Governments have, in certain cases, utilised what were previously recognised to be purely local taxes for their own purposes.

131. This position is continued in the new Constitution of India. It contains three lists of subjects, the Union List, the State List and the Concurrent List. These lists deal with the allocation of subjects between the Union and the States. Local bodies are not mentioned separately. Some of the items which belong to local bodies and were included in List (ii) of Scheduled Taxes during the Montagu-Chelmsford Reforms are included in the Union List, such as terminal taxes, while the majority of them are included in the State List. In some States taxes on property and in other taxes on professions, trades, callings, and employments are being used for the purposes of the State, though these taxes are allocated to local bodies under their constituent Acts. In order to give to the local bodies definite sources of revenue, it is suggested that a convention may be established by which net proceeds from the following sources of revenue shall be exclusively available for the local authorities :

Union List

(1) Item No. 89.
Terminal taxes on goods or passengers carried by railway, sea, or air ;

State List

(2) Item No. 49.
Taxes on lands and buildings.

(3) Item No. 50.
Taxes on mineral rights subject to any limitations imposed by Parliament by law relating to mineral development.

(4) Item No. 52.
Taxes on the entry of goods into a local area for consumption, use or sale therein.

(5) Item No. 53.
Taxes on the consumption or sale of electricity.

(6) Item No. 55.
Taxes on advertisements other than advertisements published in the newspapers.

(7) Item No. 56.
Taxes on goods and passengers carried by road or on inland waterways.

(8) Item No. 57.
Taxes on vehicles, other than those mechanically propelled.

(9) Item No. 58.
Taxes on animals and boats.

(10) Item No. 59.
Tolls.

(11) Item No. 60.
Taxes on professions, trades, callings, and employments.

(12) Item No. 61.
Capitation taxes.

(13) Item No. 62.
Taxes on entertainments including amusements.

132. The power of taxation of local bodies depends on their respective constituent enactments. So far as City Corporations are concerned, their power is confined to a few items ; they cannot go outside those items. The taxes they can impose are of a compulsory nature ; they have no option in selecting them. They can only vary the rates within the statutory limits, where these are prescribed. But within the list of items allotted to them their power is final and is not subject to the approval of any external authority.

133. This cannot be said of other local bodies. They operate over a wider range of taxes. In some Acts it is stated that local bodies may impose any tax which it is within the competence of the State Legislature to impose. But their power to impose fresh taxation or modify or abolish an existing tax is not unrestricted, as in the case of City Corporations.

134. In their Resolution dated 16th May, 1918, the Government of India expressed the view that boards, both municipal and rural, with substantial elected majorities, should have full liberty to impose or alter taxation within the limits laid down by law ; where no limits were imposed by the law the sanction of outside authority should be required to increase an existing tax. Boards which were indebted to Government should not be allowed to reduce a tax without the sanction of Government.

135. With the coming into force of the Government of India Act 1919, and the transfer of local self-overnment to elected ministers in the provinces, the above views of the Government of India were no longer binding on Provincial Governments. The principle enunciated is, however, valid even to-day and it is, therefore, necessary to see what progress has been made in enlarging the power of taxation of local bodies during the last 30 years or so. As the position varies from State to State, it is necessary to review it State-wise.

MADRAS

136. The taxes leviable by local bodies in this State are :—

(1) Property tax in the case of Madras Corporation and mofussil municipalities and house tax in the case of panchayats.

(2) Profession tax.

(3) Tax on vehicles and animals.

(4) Tax on carts.

(5) Surcharge on stamp duty.

(6) Tax on pilgrims.

(7) Tax on timber brought into the City of Madras.

(8) Tax on companies.

(9) Tax on advertisements by the Madras Corporation.

Local bodies are at full liberty to impose or alter the rates of the profession taxes, taxes on vehicles, animals and carts subject to the maximum rates prescribed in the Acts.

137. As regards the property tax, the Madras City Municipal Act, 1916, provides for the minimum and maximum rates at which property tax in Madras City may be levied. The Corporation of Madras is at full liberty to fix the rates of the tax subject to the maximum and minimum laid down in the Act. No such maximum rate has been laid down in the Madras District Municipalities Acts in regard to mofussil municipalities, but in the case of vacant lands maximum rates have been prescribed in the rules issued under section 81 (iii) of the Act which the local bodies have to follow. Mofussil municipalities are at liberty to levy the property tax at any rate, subject to the maximum mentioned above in the case of vacant lands. The Madras District Municipalities Act at the same time confers power on the State Government to compel municipal councils to levy property tax at the rates fixed by the Government.

Local bodies have to obtain the sanction of the Government for abolition or reduction in the rate of tax, if they are indebted.

138. The surcharge on stamp duty is levied at 5 per cent. in the Madras City and mofussil municipalities and at 4 per cent. in non-municipal areas of the value of properties transferred.

139. Municipal Councils and Local Boards are empowered to levy a tax on pilgrims leaving municipalities or local board areas or their neighbourhood by rail at the rates specified in the Acts. No new pilgrim tax or an increase in the rate of any existing tax can now be made without the sanction of the Government of India, as pilgrim taxes are included in the Union List.

140. The tax on timber is levied at a rate approved by the Madras Corporation but the rate cannot exceed five rupees per ton as prescribed in the Act. As long as they keep within this maximum limit, no sanction of the State Government is necessary.

141. A tax on advertisements is levied at such rates and in such manner as may be fixed by the Madras Corporation with the approval of the State Government.

142. A tax on companies which is distinct from profession tax and therefore not subject to the money limit to the Profession Tax Limitation Act, 1941, is levied by the Corporation of Madras at rates prescribed in the Act.

BOMBAY

143. Local bodies in this State can impose any of the taxes which such local body is authorised to levy under the respective Acts. However, before a tax is imposed or altered the sanction of the competent authority, viz, the Government or the Commissioner as the case may be, is necessary. No limits as regards taxes are laid down either in the Bombay District Local Boards Act, 1923, or the Bombay Village Panchayats Act, 1933, or the Bombay District Municipal Act, 1901, or the Bombay Municipal Boroughs Act, 1925. However, maxima and/or minima for certain taxes are laid down in the Acts governing the Bombay Corporation and the other City Corporations. Subject to those limits, the Corporations have full liberty to levy taxes permitted to them by law without reference to Government. It will be clear from the above that local bodies in this State other than municipal corporations, have no independent powers of taxation.

WEST BENGAL

144. The relevant Municipal Acts, viz. the Calcutta Municipal Act and the Bengal Municipal Act prescribe the maximum limits for the different taxes leviable and the municipalities are free to impose or alter these taxes within such limits. No sanction of Government or any other authority is required for the purpose. The only exceptions are (i) tolls on ferries and bridges under the Bengal Municipal Act 1932 and (ii) tax on petroleum leviable under section 181 of the Calcutta Municipal Act, 1923, which requires the sanction of the Central Government and has not actually been levied in Calcutta.

The scales of license fees levied by municipalities under sections 123 (2) and 370 (3) of the Bengal Municipal Act are also subject to Government approval.

145. The only notable power of taxation district boards pessess is the power to fix the annual rate of the road cess under section 38 of the Cess Act, 1880, read with section 46 of the Bengal Local Self-Government Act of 1885. The maximum limit is prescribed by section 6 of the former Act. Both the road and the public work cesses are being levied at the maximum rates. As in the case of municipalities, the power of District Boards to levy tolls is also subject to the sanction of outside authorities. (Section 86A and 86E of the Bengal Local Self-Government Act, 1885.)

146. Union Boards, which operate in rural areas over groups of villages, have also fairly wide powers of taxation subject to the maximum limit of Rs. 84 per annum for an individual assessee and to the power of the District Magistrate to revise the assessment at any time (Sections 48 and 40 of the Bengal Village Self-Government Act, 1919).

147. The suggestion made by the Government of India for control over reduction of taxation by indebted Boards was not acted upon in this State. The proposal was considered reasonable but no amendment of the law was made for this purpose. Provision has, however, been made in section 116 of the Bengal Municipal Act 1932, for exercising control, where necessary, over the budgets of indebted municipalities and ample provisions also exist in Chapter VIII of the Calcutta Municipal Act, 1923 as regards the Calcutta Corporation and in the Local Authority Loans Act, 1914, as regards other local bodies, to ensure repayment of Loans granted or guaranteed by Government.

UTTAR PRADESH

148. No municipal board, district board, notified area committee or town/area committee has liberty to impose or alter taxation irrespective of the fact whether any limits are laid down by the law or not. Under the existing enactments relating to these bodies proposals for imposition or alteration of any tax require the sanction of the State Government in the case of city municipalities and district boards and of the Commissioner of the division in the case of other Municipalities and notified area committees and of the District Magistrates concerned in the case of town area committee. Section 130A of the U.P. Municipalities Act, 1916, even empowers the State Government to compel a municipal board to impose additional taxes or to modify the rate of any tax already levied. There is generally no limit prescribed by law for the taxes obtaining in these four classes of local bodies, except for the circumstances and property tax in the district boards and also for their local rate.

149. However, the Development Board of Kanpur and the Improvement Trusts of Agra and Banaras do not require the sanction of any outside authority to impose the taxes available to them under their respective enactments, namely, a betterment tax and a surcharge on stamp duty, but the rates and other incidents of these levies are laid down in those enactments.

PUNJAB

150. A municipal committee may levy any tax included in the list of permissible taxes, within the limits laid down by the law. This power is, however, subject to the provision that the committee shall not impose any tax without the previous sanction of Government when

(a) it consists of members less than three-fourths of whom have been elected, or

(b) its cash balances have, at any time within the three months preceding the date of the passing of the resolution imposing the tax, fallen below Rs. 20,000 or one-tenth of the income accrued in the previous financial year, whichever amount shall be less.

With the previous anction of Government, the municipal committee may levy any other tax which Government has power to levy in the State.

151. A district board may levy any tax which the State Government can levy in the State. It cannot, however, reduce or enhance any tax without the previous sanction of Government. All district boards are bound to levy a local rate which is a land cess levied on the basis of annual value of land.

152. Panchayats can levy any tax which the State Government can impose in the State with the previous sanction of Government. They cannot abolish, reduce or enhance any tax except with the previous sanction of Government.

BIHAR

153. The district boards have not been given any power of taxation under the existing provisions of the Bihar and Orissa Local Self Government Act (Bengal Act III of 1885). They have, therefore, no discretion in the imposition or alteration of a tax. The municipalities are competent to fix the rates of taxes and fees subject to the maxima laid down in the Bihar and Orissa Municipal Act (the Bihar and Orissa Act VII of 1922). They cannot, however, decrease the rate of any tax levied by them without the previous sanction of Government (vide section 104 of Bihar and Orissa Municipal Act. 1922).

ORISSA

154. Under the Madras District Municipalities Act, 1920 (Section 78) which is applicable to Ganjam-district a municipality may levy any permissible tax at a rate determined by a resolution of the Municipal Council. The rate of levy of a new tax or increase in the rate of an existing tax, however, shall be published in the Gazette. No limit is imposed by the Act for such taxes. The Municipal Council cannot abolish an existing tax or reduce its rate without the prior sanction of the State Government and municipalities which have an outstanding loan either from Government or from public or any other local body can give effect to the abolition reduction only after obtaining the sanction of the State Government.

Municipalities in North Orissa are subject to the same restrictions as regards taxation as municipalities in Bihar.

Under the unified Orissa Local-Government Act, 1950, which was passed by the Orissa Legislative Assembly recently and under the Orissa Municipal Bill, restrictions on the maximum rate as in Bihar and Orissa Municipal Act have been proposed.

155. Under the Orissa Gram Panchayats Act 1949, panchayats may levy certain taxes within the limits prescribed in the Act. There is no provision regarding sanction of outside authority for the levy of such taxes.

MADHYA PRADESH

156. The first imposition of any tax by a municipal committee requires Government sanction under section 67 (5) of the Municipalities Act. No limits prescribing rates have been laid down by Government. The proposal for reduction of any tax by a municipal committee does not require Government sanction under section 68 (2) of the Municipalities Act. If a Municipal Committee is, however, indebted to Government such sanction is necessary under proviso to section 66 (4) of the Municipalities Act. In the case of Janapada Sabhas imposition of taxes under section 89 of the Local Government Act does not require Government's sanction. All proposals regarding taxation—whether first imposition or reduction or increase in the rates—have to be published through Government for inviting objections.

ASSAM

157. Under section 52 (D) of the Assam Local Self-Government Act, 1923, a district board may impose within its jurisdiction any of the permissible taxes, but the previous sanction of the State Government is necessary. Under section 59 of the Assam Municipal Act, a municipal board may impose any tax permitted to it, but when the board has taken a loan from or guaranteed by the State Government the board shall not without the previous sanction of the State Government make any alteration in respect of any tax which may have the effect of reducing the income of the board.

158. A municipal board may from time to time, and in accordance with the scale of fees to be approved by the Commissioner in the case of the Assam Valley Division and by the State Government in the case of the Surma Valley and Hill Division, charge of a fee in respect of the issue and the renewal of any license which may be granted by the board under the Act and in respect of which no fee is leviable under sub-section (1).

The sanction of the State Government is required to the levy of fee on boats, including steam boats and other vessels mooring within the municipality.

GENERAL OBSERVATIONS

159. We are charged with the duty of making recommendations for the improvement of financial resources of local bodies. A consideration of this matter raises two issues :—

(1) whether the existing financial resources have or have not been fully utilised ; and

(2) whether the existing resources are inadequate and are in need of enlargement ?

In regard to (1) the resolution of the the Local Self-Government Ministers' Conference (1948) recommending the appointment of this Committee recognised that the local bodies were not utilising even the existing resources fully. In order to see what justification there was for such an assumption, we addressed an enquiry to ten selected municipalities in each State asking them about rates of taxation and license fees prevalent in the years 1931, 1941, 1947-1948 and 1949. The results of this enquiry re-inforced by the evidence received confirms the presumption made in the above-mentioned resolution. We consider that no useful purpose will be served by going in details of cases where rates of taxation have remained uncharged over long periods of time. We would only bring the point to the notice of the State Governments so that they might take appropriate action with the local bodies in question. Local bodies which do not utilize their existing powers of taxation can have no claim on the financial resources of the State.

160. In order to make the best use of the existing financial resources, it is not only necessary to utilise the existing powers of taxation to the full, but also to improve the machinery for budgeting, accounting, assessment and collection of taxes, recruitment and control of personnel etc. We will deal with these points in their proper places.

161. Coming to the second question, viz., enlargement of existing financial resources, there is no doubt that existing resources are inadequate but in considering the question of the enlargement, we have to deal with the following matters :—

(1) enlargement of existing powers of taxation ;
(2) sharing of taxes with the State Government ;
(3) entrusting more and more public utility undertakings to local bodies.

Points (2) and (3) will be dealt with in separate chapters. In this chapter we are concerned only with point (1). We have already suggested that there should be a definite earmarking of the proceeds of certain taxes for the purposes of local bodies. This position prevailed during the entire period of the Montagu-Chelmsford Reforms when the Scheduled Taxes Rules were in operation. We recommend a practical reversion to that position which cannot be said to have worked unsuccessfully. It is necessary to give elastic sources of revenues to the local bodies, in view of the fact that their expenditure is constantly increasing and the revenues at their disposal at present are comparatively static. The recommendations that we have made regarding the new taxes will, we hope, give the local bodies expanding sources of revenue. More than thirty years ago, the Government of India recommended that municipal and rural boards, with substantial elected majorities, which are not indebted to Government should have independent powers in respect of taxes which they were permitted by law to raise. As will be seen from the review made above of the existing position this recommendation has not been adopted by several States, even though the principle of election has been accepted so far as the constitution of local bodies is concerned. The position, therefore, is that while the initiative in regard to proposals for taxation lies with the local bodies, the power of sanctioning such proposals rests, in the majority of cases, with the State Governments. Responsibility thus gets blurred and it is not possible to say whether the inadequacy of financial resources of local bodies is due to the reluctance of local bodies to tax themselves or to the refusal of the State Government to sanction such proposals of taxation as were made by local bodies. We were given to understand in evidence that there have been cases where local bodies have approached State Governments with proposals for taxation but the Governments concerned have not accepted them. This is a position which is fair neither to the local bodies nor to the State Governments themselves. We think that where local bodies have not got independent powers of taxation, they should be given such powers, subject to maximum and minimum limits in each case to be prescribed by the Acts or the rules framed thereunder.

Within these limits, local bodies should have a fresh hand in determining the rates of taxes. Where a local body is unwilling to impose a tax at an adequate rate, the State Government should have the right, in the first instance, to give friendly advice and if the local body fails to carry it out the State Government should in the last resort have the power to impose or raise the tax themselves and particularly the power to deal with emergencies. Two of our colleagues are, however, of the view that the State Government should not have any such power. They think that where a local body disregards any such advice given by the State Government, they should dissolve the local body and if the newly elected body also refused to act upon the advice of the State Government they should supersede the local body.

CHAPTER V

PROPERTY TAX (GENERAL)

PART—I

162. Property tax is levied by local bodies in India under the Acts constituting them. It comprises: —

(a) a tax for general purposes on lands and buildings,

(b) a water and drainage tax;

(c) a lighting tax;

(d) a conservancy or scavenging tax.

It is optional with municipalities to levy this tax, except in the City Corporations of Bombay and Calcutta where it is compulsory. Following English practice property tax levied by local bodies in India is assessed on real estate and not on personality, or movable property. The question whether movable property should not also be taxed by local authorities has been discussed on many occasions in England. The decision taken has always been the same, namely, to confine local taxation to immovable property and leave movable property for Central taxation.

163. In England, property tax is a charge on the occupier and not on the owner. In India, the tax is a charge on the owner. In Calcutta and Howrah where a consolidated rate (including also service taxes (b), (c) and (d) above) is levied, half of the tax is payable by the owner and the other half by the occupier.

164. There is difference of opinion as to whether rates on property are the most appropriate form of taxation for local purposes. At one extreme is the view that tax should be based on the income or capacity of the payer and that the rateable value of the premises which a person happens to own is no index of this capacity.* The objection is practicularly applicable in the case of persons who have inherited big ancestral residential houses without having the financial resources adequate for their maintenance or payment of rates. The other view is that the characteristic of a good local tax being its stability and the localisation of the tax based within the jurisdiction of the taxing authority, a tax on land and buildings for local purposes has much to recommend it.† We have received evidence that the imposition of this tax on impecunious owners of big houses has often caused hardship, but no suitable alternative could be suggested by anybody especially for States where no octroi is levided, Levying local tax on the basis of income is an ideal which would be difficult of achievement even in a utitary state; in a federation, where income tax is the prerogative of the Centre and where States are left with certain specific items of revonue, it is impossible to devise a method by which this can be done. In view of this practical difficulty, we are of the opinion that the existing system should continue, though harpship to owner-occupiers may be alleviated by introducing some flexibility in method of valuation of properties of different categories.

165. In district boards, property tax is lovied in the form of a cess on land but there is no house tax, except in one district board. The cess on land

*Cole—Local and Regional Government.

†Mrs. Ursula Hicks—Public Finance, page 276.

is discussed in a separate chapter. The Coorg District Board is the only district board in India which levies a house tax under section 4-A of Coorg District Fund Regulation, 1930. Some district boards and municipalities levy what is called a 'tax on circumstances and property'. This is levied on a comprehensive basis on both income and property, and partakes of the nature of a tax on income as well as a tax on property. In village panchayats in Madras, Bombay, Madhya Pradesh and Orissa, the property tax is compulsory under the Acts constituting them. It is optional in village panchayats in Uttar Pradesh, Bihar and Assam. No property tax except a 'union rate' (which is assessed according to the circumstances and property of the inhabitants within a union) is levied by Union Boards in West Bengal, which are the counter-parts of panchayats in other States.

166. In the States of Punjab and Bombay, an urban immovable property tax is levied by the State governments for provincial purposes. In Bombay, the tax is levied only in the three cities of Bombay, Ahmedabad and Poona. But in Punjab, it is levied in all district headquarter towns. Owing to the super-imposition of this provincial tax over the local property tax, municipalities in the areas concerned find it difficult to increase the rates of their house tax. Property tax seems to us a tax particularly suitable for exploitation by local bodies and we think it desirable that State governments which are now levying such a tax should withdraw from this field on the condition that an equivalent local tax is imposed by the municipality.

167. In Bombay the Honourable Minister for Finance, in his speech on the Finance Bill for 1949, made the following statement:—

> "Government have, however, in order to help this municipality (Bombay Municipality) and other Urban municipalities where the Urban Immovable Property Tax is imposed, agreed that when these municipalities raise the level of the general tax, Government will correspondingly reduce the rate at which the Urban Immovable Property Tax is levied".

Though no official orders in this sense have been issued, it is understood that the Government of Bombay is willing to consider the reduction of the provincial property tax on the merits of each case when such a request is made by any of the municipalities concerned. In the case of Poona such a reduction has already been made.

168. The Punjab Government seem to take a different view. We would earnestly request them to reconsider the matter and withdraw the provincial tax in favour of local bodies.

169. **Income.** The income derived by municipalities from property taxes in all the major States of India in 1925-26 and in 1946-47 is given in the statement below:—

Statement showing the growth of income from property taxes with reference to the total income from rates and taxes of City Corporations and Municipalities in the various States of India from 1925-26 to 1946-47.

The figures given in brackets represent percentages to total tax income

6

Province	Total taxation income	Income from tax on houses & lands and percentage to column 2 (in brackets)	Income from conservancy rate & percentage to column 2	Income from water rate & percentage to column 2	Income from lighting rate & percentage to column 2
1	2	3	4	5	6
MADRAS (excluding Madras City)	70,10,632	27,63,130 (39.4)	...	12,33,936 (17.6)	...
Madras City ...	40,33,826	16 19,733 (40.10)	...	10,83,927 (26.62)	...
BOMBAY (excluding Bombay City)	1,53,09,561	26,81,169 (17.5)	13.33,112 (8.7)	33,10,954 (21.6)	...
Bombay City ...	2,72,51,808	1,28,75,545 (47.25)	31,79,773 (11.67)	64,93,447 (23.83)	...
WEST BENGAL (excluding Calcutta)	62,11,862	22,58,288 (36.3)	16,21,868 (26.1)	10,79,639 (17.3)	...
Calcutta City ...	1,57,78,474	1,49,92,259 (89.43)	76,667 (0.48)	...	...
UTTAR PRADESH	1,01,80,680	9,05,139 (8.8)	1,32,886 (1.3)	1,39,818 (13.0)	...
PUNJAB ...	72,68,183	6,08,868 (8.0)	11,248 (0.14)	1,94,029 (2.57)	...
BIHAR & ORISSA	24,82,309	9,97,028 (40.0)	6,35,154 (25.6)	2,68,087 (10.8)	... ...
MADHYA PRADESH	38,89,569	1,22,041 (3.11)	4,68,046 (12.0)	5,52,026 (14.1)	...
ASSAM ...	5,56,930	1,68,244 (30.2)	1,42,529 (25.6)	1,06,713 (19.1)	...

Province	1946-47 Total taxation income	Income from tax on houses & lands and percentage to col. 2	Income from water rate and percentage to col. 2	Income from conservancy rate and percentage to col. 2	Income from lighting rate and percentage to col. 2
1	2	3	4	5	6
MADRAS (excluding Madras City	25,620,441	69,41,5?2 (27.09)	3 ,53,1 9 (11.9)	9,69,616 (3.7)	54,34,726 (21.2
Madras City	1,07,72,643	48,53,875 (45.10)	6,26,377 (5.81)	...	...
BOMBAY (excluding Bombay City	2,05,89,098	35,21,86) (17.105)	49,38,351 (23.98)	14,67,816 (7.12)	3,14,300
Bombay City	5,43,10,763	87,75,728 (16.15)	1,34,81,288 (24.82)	48,54,811 (8.93)	....
WEST BENGAL (excluding) Calcutta)	73,35,453	42,77,935 (54.5)	3,95,868 (5.35)	16,06,902 (2.5)	3,06,919 (3.9)
Calcutta City.	2,41,59,100	2,19,50,600 (9.0)	levied as a consolidated rate		
UTTAR PRADESH	2,75,10,000	2,37),000 (8.6)	46,90,000 (17.0)	2,00,000 (0.7)	...
PUNJAB	53,50,878	5,0),027 (9.31)	4,18,191 (7.8)	18,806 (0.3)	....
BIHAR	44,63,948	19,23 366 (43.13)	5,26,278 (11.74)	12,73,996 (28.55)	21,823 (0.48)
ORISSA	6,31,113	2,15,909 (34 2)	52,205 (8.8)	1,77,647 (0.8)	...
MADHYA PRADESH	1,10,96,594	8,66,784 (7.8)	14,09,595 (13.8)	14,73,539 (14.4)	30,521 (0.30)
ASSAM	10,42,102	4,12,734 (39.6)	2,09,303 (2.08)	3,18,469 (3.5)	44,682 (4.2)

It will be seen that this tax is of major importance in Madras, West Bengal, Bombay, Bihar, Orissa and Assam. In Bombay the rates of house tax in many municipalities are far lower than in municipalities of corresponding size in Madras. In Punjab and Uttar Pradesh it is of comparatively minor importance. It is levied in a few municipal areas and where levied the rate is very low. There seem to us great possibilities of development of this source in these two States. In Madras, West Bengal, Assam and Orissa the property tax is levied by all municipalities. In Bombay the house tax is levied by all municipalities, except three, namely Ahmedabad, Gudguddapur, and Ulvi. These exceptions are only nominal, as Ulvi and Gudguddapur are pilgrimage centres and the municipalities there function only during the pilgrim season. Ahmedabad municipality levies a high water rate which partakes of the nature of a house tax and would not be levied at that rate but for this fact. In Bihar, house tax is levied by 54 out of 57 municipalities. In Uttar Pradesh, it is levied only in 33 out of 110 municipalities.

170. Generally the tax is levied at a flat rate, but in certain municipalities, such as Madras City, Poona, Lucknow, Broach and possibly a few others, the tax is levied at a progressive rate ; *i.e.*, at a higher percentage on houses having larger annual value.

171. In the Calcutta Municipal Act, a maximum of 23 per cent. of the annual value is prescpibed for the consolidated rate leviable by the Corporations, which includes the general property tax plus the water, lighting and conservancy rates. There is no prescribed minimum for the consolidated rates. In the case of the Corporation of Madras, a maximum of 20 per cent. and a minimum of 15½ per cent. have been fixed. In the City of Bombay Municipal Act, a minimum of 8 per cent. and a maximum of 21 per cent. have been prescribed for the general tax. For district municipalities of West Bengal, Bihar, Orissa and Punjab maximum rates for the levy of the tax are prescribed. In the remaining States there is no prescription of maximum or minimum rates.

172. The City Corporations of Madras, Bombay and Calcutta are competant to fix any rate for this tax within the statutory limits without obtaining the previous sanction of the State Government. In West Bengal no prior sanction of the State Government is necessary for the imposition of the rates within the prescribed limit. In Madras such district municipalities as are not indebted can also do so without such sanction. In all other cases, the prior sanction of the State Government is necessary to the levy of the tax.

173. Taxation in any form is unpopular and municipal boards are generally reluctant to impose fresh taxation. As between direct and indirect taxation, direct taxation is much more unpopular. In Madras and Bengal, which have been accustomed to property tax from the early days of British rule, the tax does not provoke the same degree of opposition. But in States like Uttar Pradesh and Punjab, proposals to levy house tax are strongly opposed and that is why the levy of house tax is restricted to a small number of municipalities and even there the rate is generally low. In view of this feeling and the consequent reluctance of municipal councils to impose property tax within their areas, State Governments have acquired or are considering the needs of acquiring power to levy property tax for local bodies on a compulsory basis. Where, however, statutory power is already vested in Government such indirect pressure is out of place. As almost all local bodies are receiving financial assistance in one shape or another from State Governments, they are generally not in a position to refuse compliance with such prssure. In one State, we were told by the Minister in charge of Local Self-Government that, in his view, the power of taxation should be taken away entirely from local bodies and vested in the State Government itself. In this manner, he said, the State Government, which is cognisant of the circumstances of each locality would be able to impose appropriate taxation and thus leave the municipal councillors free to discharge their proper functions without fear of losing their seats at the next election. They would then be able to tell their voters that they had no responsibility in the matter of taxation and consequently were not to blame.

174. Under section 81-A of the Madras District Municipalities Act, as amended in 1944, the State Grovenment have power to fix the rate of property tax in any mofussil municipality as they may deem desirable without the consent of the municipal council. In exercise of this power the Government of Madras have in recent years increased the rate of property tax in several municipalities. The rates of property tax in force in Madras municipalities are given in an annexure to this chapter. It will appear thorefrom that the rates are generally higher than the rates prevalent in most other States. In addition to the property tax proper there is an education cess in Madras in the form of a surcharge on the property tax. Government have also power to fix the rates of this cess and they have exercised this power in respect of all municipalities.

175. The Government of Madras consider that the rates of property tax and education cess levied in all municipalities in the State are adequate. We endorse this view and do not, therefore, suggest any additional taxation of property in Madras municipalities.

176. In Uttar Pradesh, the State Government has taken statutory power to enfonce the levy of house tax as a compulsory measure in urban areas. Where municipalities refuse to accept advice the State Government has the power to dictate the rates of tax. Section 130-A of the U.P. Municipalities Act runs as follows :—

"130-A (1) The Provincial Government may, by general or special order published in the official gazette, require a board to impose any tax mentioned in section 128, not already imposed, at such rate and within such period as may be specified in the notification, and the Board shall thereupon act accordingly.

(2) The Provincial Government may, require a board to modify the rate of any tax already imposed and thereupon the Board shall modify the tax as required.

(3) If the Board fails to carry out the order passed under sub-section (1) or (2), the Provincial Government may pass suitable order, inposing or modifying the tax, and thereupon the order of the Provincial Government shall operate as if it had been a resolution duly passed by the Board."

177. In Bombay, the State Government has not spefically taken powers to impose house tax or to dictate the rate at which it should be levied, but the State Government, in certain circumstances, such as insufficiency ot funds etc., can require a municipality to impose any of the authorised taxes. The State Government has, however, advised the municipalities to levy a consolidated tax on buildings and lands of not less than 20 per cent. of their annual value, or 1.5 per cent. of their capital value, in lieu of the following taxes :—

(*a*) house tax ;

(*b*) general sanitary cess ;

(*c*) general water rate , and

(d) lighting tax.

In commenting upon the actual exercise of those powers, the Secretary to the Government of Bombay, observes as follows :—

"Since the issue of these orders by Government, the municipalities have generally shown initiative to increase their property taxes. This is partly attributable to the pressure of increasing expenditure of local bodies due to the grant of higher scales of pay to their staff and higher cost of providing municipal services. In many cases, the comulative burden of taxes on property has reached 16, 17 or 18 per cent. although it is true that in very few cases has it reached 20%. The pressure of increasing expenditure will however soon compel the municipalities to increase the rate of taxation on property to 20% if not higher especially as owing to financial stringency the Government in the next few years will not be in a position to sanction further grants to municipalities. The Government, therefore, in order to avoid unnecessary hardship to property owners have not rigidly enforced the orders contained in the G. R. and left the desired result to be achieved by the operation of economic factors mentioned above. Nor is this Government contemplating any legislation with a view to take power to impose taxation in municipal areas as has been done in Madras and U.P."

178. We are of the opinion that in the place of the present optional provision for the levy of the property tax in the various Municipal Acts, there should be an obligatory provision as it is in the Acts constituting the City Corporations of Bombay and Calcutta (Section 139 of the City of Bombay Municipal Act, 1888 and Section 124 of the Calcutta Municipal Act, 1923). Should, however, any municipality fail to levy the tax in spite of such statutory provision, the State Government should have power to levy the tax at such rates as they deem fit in such municipal area for the benefit of the municipality. We would suggest that this power should be exercised by the State Government only when a municipality has refused the advice tendered to it by the State Government in the first instance. One of our colleagues is, however, of the view that should any municipality be able or willing to find adequate revenues in some other manner or from some other alternative source, the State Government should have discretion to exempt such municipality from the statutory obligation to levy the property tax.

179. As regards the rates to be prescribed, we recommend that a maximum rate for the property tax should be prescribed by statute, where it is not done at present. Some of our colleagues, however, are of the view that such a provision is not necessary.

180. We would also recommend that a minimum should likewise be prescribed in the Acts. A few of us, however, are of the view that a statutory minimum rate is not necessary.

181. We have also carefully considered whether a progressive scale of rates would be suitable for the levy of the property tax. We are generally in favour of a progressive scale, adoptable at the discretion of the municipality concerned, as has been provided in the Bombay Provincial Municipal Corporation Act, 1950. One of our colleagues, while supporting generally the adoption of the principle of progression, is, however, of the view that this principle should not apply in respect of houses which are occupied by the owners themselves. The actual scale of progression to be applied should, we think, be left to the municipality concerned. Some of our colleagues are, however, opposed to the principle of progression in municipal property taxes.

182. **Exemptions and remissions of property tax.** Most of the Acts constituting local bodies or the rules made thereunder provide for exemption of certain classes of properties. The properties generally exempted are :—

(1) places set apart for public worship ;
(2) dharmshalas for the occupation of which no rents are charged ;
(3) places used for charitable purposes ;
(4) burning and burial grounds ;
(5) buildings used for educational purposes (in some States) ;
(6) buildings or lands belonging to the municipal council.

183. In relation to the Union and State Government properties there are special provisions. These will be dealt with separately.

184. In the U.P. municipalities Act, no list of properties exempted is given, but under section 157 a municipal board has power to grant exemptions, subject to the approval of the Commissioner of the Division, to any person or class of persons or any property or description of property. Under the same section the State Government has the power to grant such exemptions.

185. The Chief Commissioner of Delhi has, at the instance of the Government of India, exempted all Ambassadors, Ministers and High Commissioners and

their staff holding diplomatic status from the payment of all municipal taxes imposed by any municipality or Notified Area Committee in the State of Delhi. Outside Delhi, there are no properties owned by diplomatic representatives. They generally live in rented houses and as municipal taxes are paid by landlords no question of exemption from property tax arises. But they are exempt from local taxes which are payable by occupiers, such as wheel tax, dog tax, etc.

186. We also understand in this connection that the Government of India had similarly requested the Government of West Bengal to sponsor legislation in order that Ambassadors, Ministers, etc. of foreign Governments may be exempted from the payment of the occupier's share of the consolidated rate in Calcutta. It is understood that legislation on these lines is being sponsored by the State Government.

We are of the opinion that in all cases where exemption is granted at the instance of a Government, an equivalent contribution should be paid by the Government to municipal funds.

187. Exemptions from rating in full or in part are also granted in England in respect of the following properties :—

(1) property occupied by the Crown or used for the purpose of the Crown, *e.g.*, Government Buildings, Post Offices, Police Stations, etc., but in most cases contributions are made in lieu of rates ;

(2) properties covered by the Scientific Societies, Act, 1843.

(3) Sunday Schools (optional) ;

(4) registered places of worship ;

(5) lighthouses, buoys and beacons as defined in Merchant Shipping Act, 1894 ;

(6) agricultural land and buildings ;

(7) Ambassador's residence ;

(8) polling booths ;

(9) voluntary schools ;

(10) land struck with sterility, e.g., highways ;

(11) personal property ;

(12) machinery not forming part of the hereditament.

188. It will be seen that the Indian list of exemptions is not exactly the same as the English list. In England charitable institutions are not generally exempt ; nor are hospitals, cemeteries and burial grounds. Educational institutions like Board Schools, Universities, Libraries, Reading Rooms, etc. are also not exempt. As regards charitable institutions we are of the view that it is necessary to ensure that an institution claiming exemption on the ground of being a charitable institution is actually being used for purposes of charity. We also think that the list of charitable institutions, which at present get exemption from property tax, should be subjected to periodical review in order to see whether the exemption given in each case is justified or not. This review should be undertaken either by the State Government or the municipality according as the exemption is under the Act or the rules made thereunder.

Where an actual service, like supply of water, is rendered, there should be no exemption, as is being granted by the Lucknow Municipality to the Government Hospital. To our knowledge in no other municipality in India is water supplied free to Government Hospitals and we see no justification either for continuing this

exemption or for converting it into a grant-in-aid, as was proposed by the Administrator, Lucknow Municipality, during the course of his evidence before us. It does not appear that a complete list of exemptions granted (together with annual value in each case) is kept by every local body. This should be done, so that the ratepayer may know what these exemptions are costing him. Further this list should be scrutinised carefully from year to year with a view to see that the exemption is fully deserved in every case.

189. There is in some Acts a money limit of annual rateable value (ranging from Rs. 6 to Rs. 36) properties below which are exempt from taxation. But in others no such limit is prescribed and discretion is allowed, which is exercised rather liberally. During the course of evidence, it was brought to our notice that the exemption limit in some municipalities is much higher than even in the City Corporations of Bombay and Calcutta. We are of the opinion that there should be no exemption from the property tax merely on the ground of the annual value falling below a particular monetary limit. Such exemptions, wherever they exist, should be done away with. One of our colleagues, however, is of the view that properties below a particular level of annual value may be exempt under rules framed by the municipality subject to the sanction of the State Government. Another of our colleagues is in favour of not limiting the discretion of municipalities in regard to exemptions in any manner.

In England agricultural land is exempt from the local rate. The position regarding rating of agricultural land in each State in India is analysed below :—

In Madras there is specific reference to the liability of agricultural lands in urban areas to the general property tax in sub-section (4) (a) of section 81 of the Madras District Municipalities Act, 1920, which lays down the procedure for the assessment of such lands to the tax. The Madras Government state that 31 Municipal Councils are levying property tax on agricultural lands under this sub-section, while the remaining are levying the tax under Section 81 (2) of the Act at such proportions as they fix of the annual value of such lands.

Section 83 (2) provides that water and drainage tax shall not be levied on such lands.

In Bombay there is no specific reference in the Acts to agricultural lands but it is understood that such lands are not assessed to property tax in municipal areas, but are liable to the local fund cess, which goes to the district board.

In Bengal, the tax on holdings is described as a tax on land and buildings. Sub-section (28) of Section 3 of the Bengal Municipal Acts, 1932 defines land in the following terms :—

> "Land includes benefits arising out of land and things attached to the earth, or permanently fastened to the earth".

Agriculture being a benefit arising out of land, it may be taken that agricultural lands are also liable to the tax on holdings, which is a tax on buildings and lands.

The same is the case in U. P. *i.e.*, there is no specific reference to agricultural lands. However, Section 129 of the U. P. Municipalities Act, 1916, states that the water tax shall not be levied on land exclusively used for agricultural purposes.

In the Bihar and Orissa Municipal Act, 1923 "holding" means any land. Agricultural lands have been specifically exempted only from the payment of the water, drainage and latrine taxes *vide* S.86 (1) (b), S.86 (A) (1) (b) respectively of the Act.

In Madhya Pradesh, the C. P. Municipalities Act, 1923, describes the property tax "as a tax on land and buildings". There is no specific provision for the exemption of such lands from water and drainage taxes.

In Assam it is apparent from the definitions of 'holding' and 'land' given in Section 3 of the Assam Municipal Act, 1923 and the provisions of S.61 (1) (b), S.62 (b) and S.64 (b) laying down that only the water, lighting and drainage taxes shall not be levied on lands used exclusively for agricultural purposes that such lands are liable to the 'tax on holding'. The general position would appear to be as follows:—

Agricultural land in almost all the provinces is subject to municipal taxation in addition to the land revenue payable to the State Government. There is, however, a specific provision in Madras, U. P., Bihar, Orissa and Assam for the exemption, from the water and drainage tax of agricultural land exclusively used for agricultural purposes. Though there is no such provision in other Act, there would seem to be no justification for levy of water and drainage taxes on agricultural lands when no such service is rendered.

190. **Vacancy Remissions.** Section 87 (1) of the Madras District Municipalities Act, 1920 relating to vacancy remission states:—

> "When any building has been vacant for 30 or more consecutive days in any half year the executive authority shall remit so much not exceeding one-half of such portion of the tax as relates to the buildings only proportionate to the number of days during which the building was vacant and unlet in the half year'.

191. U. P. Municipalities Act, 1916 contains slightly different provisions.

> "In municipality — other than one situated wholly or partly in a hilly tract — where a building or land has remained vacant and unproductive of rent for 90 or more consecutive days during any year, the board shall remit or refund so much of the tax of that year as may be proportionate to the number of days that the said building or land has remained vacant and unproductive of rent".

192. In Bihar, under Section 111 of the Bihar and Orissa Municipal Act, remission can be claimed when any holding has been unoccupied for 60 or more consecutive days.

193. Similar provision exists in every other Act except that the quantum of remission varies. In Bombay two-thirds of the tax due may be remitted while in Calcutta remission is restricted to one-half of the owner's share of the consolidated rate. As there is no occupier, the occupier's share remains automatically uncollected. No remission is allowed in respect of land or buildings belonging to the Calcutta Improvement Trust on the ground that they are unoccupied. In the Bengal Municipal Act remission is allowed up to three-fourths of the tax due.

194. In view of the fact that the major portion of the services rendered by local bodies such as street repairs, maintenance of main roads, fire brigades, public lighting, drainage, street cleaning, etc. has to be performed whether the building remains occupied or not, there seems no justification for giving a greater remission

than one-half of the tax due in all such cases. It seems also desirable that remission should not be granted for a vacancy of less than 90 consecutive days in a year. The Calcutta Corporation Investigation Commission has recommended that no rate payers who are in arrears should be entitled to vacancy remission anywhere. The majority of our colleagues support this recommendation.

195. **Basis of assessment.** The basis of assessment in most cases is the 'annual value' of lands and buildings. In a few cases a basis other than annual value is adopted, which will be mentioned later. Annual value has a special signification in this context quite apart from its ordinary meaning and is variously determined, as under :—

196. In relation to lands and buildings which are generally let, the annual value is the gross annual rent at which such lands and buildings may, at the time of assessment, reasonably be expected to let from month to month or from year to year, less a deduction, in the case of buildings, of 10 per cent. on such annual rent, for repairs and for all other necessary expenses to maintain the building in a state to command the rent. The term used is 'reasonable' rent and not actual rent. During the course of the evidence taken by us, it was brought to our notice that in actual practice assessing authorities rely almost completely on actual rent paid and make no attempt to determine independently what the reasonable rent is. No instances were forthcoming in which 'reasonable' rent was assessed at a figure higher than actual rent. The Calcutta Corporation Investigation Commission have commented severely on the incorrectness of the practice of relying exclusively on actual rents in regard to municipal assessments in Calcutta. The Calcutta Commission have also given instances of cases in which actual rents on which assessments are made are quite out of relation to economic rents. They quote* the following extracts from the judgement of the House of Lords in Popular Assessment Committee *versus* Roberts (92, Volume II-I.A.G. Page 93)

> "The tenant referred to is by common consent an imaginary person. The actual rent paid is no criterion, unless indeed it happens to be the rent that the imaginary tenant might be reasonably expected to pay in the circumstances mentioned in this section". Reasonable rent is the measure of the annual value and of the tax. It is only used as a standard which must be examined "without regard to the actual limitation of the rent paid by virtue of covenant as between landlord and tenant, and, also the statutory restrictions that may be imposed upon its receipt. The statutory measure of the rateable value is the annual rent which a tenant might be reasonably expected to pay one year with another ..... less certain deductions. "That is the measure, and the only measure, of the rateable value, which is provided. "This imaginary rent is not to be confounded with the rent which the actual tenant in possession in fact pays. It may naturally be assumed that the hypothetical tenant would take this last into consideration along with many other things, including the capacity of the hereditament and its adaptabilities in calculating the rent he might be expected to pay, but the actual rent paid by the actual tenant is not and cannot be treated as a measure of or a substitute for, the hypothetical rent which conceivably might be expected from a hypothetical tenant."

197. The judgment of the House of Lords quoted above is based on the wording of the Parochial Assessments Act of 1836, which defines the standard by which the value of properties for rating purposes should be determined

*(Calcutta Corporation Investigation Commission Report Volume II—Part I. Paragraph 23, page 14.)

as "an estimate of the net annual value of the several hereditaments rated thereunto; that is to say, of the rent at which the same might reasonably be expected to let from year to year, free of all usual tenant's rates and taxes and the commutation rent charge, if any, and deducting therefrom the probable average annual cost of repairs, insurance, and other expenses, if any, necessary to maintain them in a state to command such rent."

198. The Royal Commission on Local Taxation in England and Wales 1901, in commenting upon this provision says :—

> "It will be observed that the actual rent paid is not necessarily to be the standard of value but the rent which might reasnnobly be expected to be paid from year to year or the annual rent which the tenant might reasonably be expected taking one year with another, to pay for an hereditament"...The Legislature contemplates letting at an yearly rent as a normal, or at least a conceivable, condition of rateable property. *And it is no doubt the case that a considerable proportion* of urban properties, (especially dwelling houses) are in fact, let on terms sufficiently similar to those contemplated by the Act. In such cases, the rent actually paid is usually assumed to represent the true annual value, subject, of course, to deduction in order to arrive at the rateable value if the landlord bears the cost of repairs, insurance, etc. But the rent actually paid under an old contract may not represent the true present value; and it obviously does not do so in cases where premiums (*) have been paid or collateral bargains entered into, such as are frequently made with regard to licensed premises."

199. It was pointed out to us during the course of evidence that Rent Control Acts have made the yield from property tax static by stabilizing rents. The Calcutta Corporation Investigation Commission have stated that the operation of Rent Control Laws has no bearing on the assessment of 'reasonable' rent. While this may be technically correct, it is at the same time a hardship that landlords should have to pay a larger property tax without being able to recover that increase from their tenants. At the time they put up the buildings they expected a certain economic return from their investments. And if by any increase of municipal tax that investment should become economic it would have a deterrent effect on building enterprise. Where property taxes are paid, as in England, by the occupier, building enterprise is not affected. But, where, as in India, they are paid by the owner they do have such undesirable effect. There is already an acute shortage of housing in almost all the big towns of India and we should be reluctant to recommend any step which would perpetuate such a shortage and also affect prejudicially the growth of municipal revenue. In this connection we recommend for adoption, the provision in Section 10 of the Bombay Rents, Hotel and Lodging House Rates Control Act, 1947, which permits an increase in rent on account of an increase in rates. This section is as under :—

> "10. Where a landlord is required to pay to a local authority in respect of any premises any rate, cess or tax imposed or levied for the benefit of such authority, he shall be entitled to make an increase [illegible] in the premises by an amount not exceeding the increase [illegible] by him by way of such rate, cess or tax over the amount [illegible] which included the date of the commencement of this Act, (or the date on which the

(*) [illegible] are quite a common feature since the introduction of Rent Control Acts in India.

premises were first let; whichever is later) and such increase in rent shall not be deemed to be an increase for the purposes of section 7".

200. Similar provision is to be found in Section 11 of the Central Province and Berar Regulation of Letting of Accommodation Act, 1946, which runs as under:—

"If the tax or rent payable in respect of the land under or appurtenant to a house is enhanced after the extension of this chapter, then notwithstanding anything contained in the preceding clauses, the landlord may increase the rent of the house in the following manner, namely :—

(a) If the landlord holds the said land as a malik-makbuza or as a raiyat he may increase the house rent by an amount equal to the sum by which the land revenue in respect of the said land has been enhanced ;

(b) if the landlord holds the said land as a proprietor of a mahal or as a tenant as defined in the Central Provinces Tenancy Act, 1920 (I of 1920), he may increase the house rent by an amount equal to the sum by which the rental assessment or rent ir respect of the said land has been enhanced; and

(c) if the landlord holds the said land under a lease by the terms of which the lease money may be enhanced if the land revenue is enhanced, then he may increase the house rent by an amount equal to :—

(i) the sum by which the land revenue has been enhanced in the case of land held by the person responsible for the payment of land revenue as a malik-makbuza or as a raiyat malik ;

(ii) the sum by which the rent of the land has been enhanced in the case of land held by a person as a tenant under the Central Provinces Tenancy Act, 1920, (I of 1920) ; and

(iii) the sum by which the rental value of the land has been enhanced in the case of land held by the person responsible for payment of land revenue as a proprietor of the mahal ;

Provided that if there are more houses than one on such land, then the landlord may increase the rent of each house in a fair and equitable manner but not so that the aggregate increase in such rents shall exceed the amount by which the land revenue, rent or rental value, as the case may be, is enhanced."

201. In view of the fact that the wording of the Indian Municipal Acts as regards the basis of assessment is the same as that of the English Act, we are of the opinion that municipalities should take as the basis of assessment not actual rent, but the 'reasonable rent' intended by law. It may be that in a large number of cases the actual rent does represent the 'ressonable rent'. But there may be cases where it does not, as, for example, where a premium is paid or where collateral bargains are entered into or premises are let out at ridiculously low rents to relations or friends to avoid a high municipal rate. In such cases the actual rent may not be an accurate basis.

202. The main difficulty in municipal assessment, however, lies not with regard to properties which are generally let, but with regard to properties which are not usually let, such as schools, colleges, government buildings, hospitals, cinemas, mills, factories, theatres, railways, port-trust properties, etc. In regard to such properties, the basis of assesment is still the annual value, but the method of determination of the annual value is not so simple and also not the same in all the States. In some States, the wording of the English law has been adopted, viz., it is the annual rent at which such buildings may reasonably be expected to let and the assessing authorities are expected to employ this formula in the best manner applicable to the circumstances of the case. In other States, it is the 'capital' value, that forms the basis of assesment. Capital value is defined as the estimated value of the land at the time of assessment and the estimated cost of erecting the building at such time (not at the time of construction) after deducting for depreciation a reasonable amount which is not less than 10 per cent. of such cost. From such valuation, machinery and furniture are excluded in some states, but in certain others only machinery is excluded and no mention is made of furniture. The annual value in such cases is assumed to be 5 to 7½ per cent. of the capital value as determined above. The assessment is then made on the annual value so arrived at.

203. It has been stated above that the English Law prescribes only one basis of assessment, namely, the gross annual rent at which the property may reasonably be expected to let. It has also been stated that some States have only one basis as perscribed in England. It will be, therefore, of interest to see how cases of properties which are not usually let are dealt with in England. As a result of common law and judicial decisions certain principles of valuation have grown up in England and these are briefly dealt with below :—**

1. **Comparison basis.** Where there is no rent of the particular hereditament is not let at a rack rent such as schools, colleges, halls, hospitals and clubs, the valuation is often fixed by comparison with similar premises.
2. **Contractor's test.** Consists of adding together a percentage on the value of the site, and a percentage on the value of the buildings and applying a commercial rate of interest to the capital value found in this way.
3. **Revenue basis.** In certain other properties which have to some extent the character of monopolies and which are seldom or never let on a rental basis (viz., canals, tramways, docks, water-works, gasworks, electric supply and undertakings. etc) the "contractors' test' principle as only partially applied, e.g. to the buildings as distinguished from the line, pipe, etc. In these cases the main valuation is made upon another principle. The rent, therefore, which a tenant might give cannot be determined merely by taking a percentage on the cost of construction. In such cases the courts have approved of a method of valuation starting from the receipts earned, and arriving at the annual value of the rateable portion of the undertaking by a series of deductions. Many such properties extend into several parishes and counties. The valuations in such counties have to be made on the basis of what a hypothetical tenant might give for the portion of the undertaking in each parish.
4. **Output method.** Where some other form of payment than rent is made, e.g., royalty payments, the valuation is fixed by multiplying

**CLARKE—Outlines of Local Government in the United Kingdom.

output by a rate of royalty per unit of output. This method is adopted for mines.

5. **Accommodation unit basis.** e.g. per school place, per bed in hospitals, per seat in theatre or cinema.

6. **Zoning basis.** A method whereby a scale of value based on one hereditament is used to apply to other similar hereditaments, adjustments being made for situation, a different unit value applying to the zones into which the hereditament is divided.

7. **Railways.** Cumulo method, i.e., by taxing the undertaking as a whole instead of taxing each part lying within a local area separately.

204. In Bombay City, the Municipal Commissioner states that in cases where a building is not ordinarily let, the rateable value is determined either on a comparative basis (i.e. by comparing the rental value of similar property in each locality) or on a profit basis or by applying the 'contractor's test'. It will be noticed that these are the same as the methods followed in similar cases in England. There is, however, one difference of substance between English and Indian practice, and that is with regard to valuation of machinery. In England the following classes of machinery are definitely rateable :—

(1) machinery and plant used mainly or exclusively for the generation, storage, primary transformation or main transmission of power ;

(2) plant and machinery mainly or exclusively used for heating, cooling, ventilating, lighting, draining; supplying water to or protecting from fire the land or buildings, but not such plant used exclusively or mainly for trade purposes ;

(3) lifts and elevators mainly or usually for passengers ;

(4) railway and tramway lines and tracks ;

(5) such part of any plant or any combination of plant and machinary including gasholders, blast furnaces, coke ovens, tar distilling plants, cupolas, water towers with tanks, as is, or is in the nature of, a building or structure.

205. But in India all classes of machinery are excluded.

It was pointed out to us in evidence in Calcutta that in Calcutta Corporation was losing a large sum of money every year by this departure from English practice. We see no reason why such machinery as is rateable in England should be excluded in India, and recommend that the Acts of the various States may be amended on the lines of English practice in this matter.

206. With regard to furniture we are not in favour of the inclusion of furniture for valuation.

207. It was pointed out to us that the adoption of capital value in place of rental value would lead to a large increase in the revenues of local bodis, as there has been a great rise in the capital value of property all round. In the United States of America and certain countries of Southern America, this basis has been adopted for local taxation. This system, it is stated, gives rise to graft and serious dissatisfaction. One of the complaints regarding municipal assessment in this country is that it is marked by favouritism and corruption generally. When such is the case with regard to a fixed and easily ascertainable basis of assessment viz., rent, we fear that such complaints would grow in volume with the adoption of such a highly speculative basis as the determination of what a property would fetch if it were sold in the market at the time of assessment. No two persons can give an identical

value fer the same property at any one time. It would be difficult even to produce records to show what the cost of construction has been much less to show what the cost might be. We, therefore, are definitoly of the opinion that there should be no change from the well tried basis of rent to the more or less uncertain basis of capital value. Where, however, municipalities are actually adopting capital value as the basis and there is no cause for complaint that basis may continue.

208. We were informed in Calcutta that the existence of two alternative basis of assessment under clauses (a) and (b) of section 137 of the Calcutta Municipal Act, namely, the rental basis and the cost of construction basis, has afforded opportunities to owners of premises to apply for adoption of the method which reduces the rateable valuation and consequently the amount of rate chargeable to them. There is no doubt that these two methods sometimes lead to widely divergent valuations even in respect of two similar plots of land having the same area, frontage and other advantages. It happens frequently that where rent is high and the cost of construction and value of land is low, valuation on the basis of cost of construction would be considerably lower than valuation on the basis of rent. There is then a temptation on the part of owners to seek a change in the basis of valuation from 'rental' to 'dwelling' a process which has been facilitated by judical decisions which have held that clause (b) of Section 127 would apply when a part of the premises is in the occupation of the owner even if the larger part is leased out to tenants. Thus for a building long valued on a rental basis and assessed to certain rates, the Corporation may at any time find itself faced with the necessity of reducing the rate because the owner has in the meantime succeeded in securing a foot-hold in a small part of the house and applied for the entire premises being valued under Section 127 (b). The inconvenience and confusion due to the existence of alternative basis of valuation have been severely commented upon by the Calcutta Corporation Investigation Commission. We did not receive similar complaints in Madras, Uttar Pradesh, Bihar, Orissa, Madhya Pradesh, Assam and Punjab, where also the Provincial Acts contain alternative basis for determining the annual valuation. This may be due to the fact that the choice of the basis in these latter States does not lie with the owner of the property but is left exclusively to the judgement of the executive authority of the municipality. If alternative basis are to be retained, we think that the choice of basis should not, either directly or indirectly, be left with the owner of the property. We are, however, in agreement with the Calcutta Corporation Investigation Commission that there should be only one basis of assessment, namely, the rental basis, as it would result in improvement of revenues and prevention of favouritism. This, as already stated, is the case in England and in some of the States in India. We suggest that where alternative basis are in existence, the position may be reviewed and remedied, if necessary.

209. In relation to agricultural lands and open lands not forming part of any building, the basis of assessment is different in different States. In Madras City, agridultural lands are assessed to property tax on the basis of their annual value, which is the land revenues plus the water rate payable to government. Non-agricultural lands are assessed by the Corporation of Madras to property tax on the basis of their annual value which is, in practice, assumed as 3% of the capital value. There is an alternative basis prescribed in section 102 of the Madras City Municipal Act for assessment of these lands on the basis of the extent in lieu of annual valuo, subject to the following maximum rates per ground of 24000 Sq. ft. per annum, but this has not been availed of :—

(1)	Water and drainage	Rs. 3/-
(2)	lighting tax.	Re. 1/-
(3)	tax for general purposes	Rs. 4/-

The provisions regarding the basis of assessment in Madras district municipalities are the same as in the Madras City Corporation except in regard to non-agricultural vacant lands which are assessable either on the basis of their extent or in the basis of their capital value and not on the basis of their annual value. The Madras Government have fixed the following maximum rates for the several classes of property tax to be levied by municipalities on vacant lands :—

Class of Property tax.	Maximum percentage of capital value at which the tax per half-year may be levied.	Maximum rate for every 320 sq. yards or portion thereof per half-year.
	Per cent.	Rs.
(i) Tax for general purposes.	1/4	4/-
(ii) Water and drainage tax.	1/4	4/-
(iii) Lighting tax.	1/16	1/-
(iv) Scavenging tax.	1/16	1/-

210. In the State of Bombay the local fund cess is levied on agricultural lands even in municipal areas, but such agricultural lands are not subject to any municipal taxation. The proceeds of the local fund cess on agricultural lands in municipal areas are credited to district boards and not to municipalities. Several witnesses from areas have questioned the correctness of this practice. They think that there is no justification for the appropriation of the local fund cess on lands within municipal areas by the district local boards. It is understood that there are not many agricultural lands in municipal limits and consequently the local fund cess collected within the municipal limits be very small. We recommend that the practice may be changed and the entire proceeds of the of the local fund cess within municipal areas be handed over to municipalities instead of to district boards. This recommendation applies to all States where such practice is in vogue.

211. Several witness suggested to us that nazul lands should be handed over to municipalities. While the proprietary rights may continue to vest in Government, the majority of the Committee are of the opinion that the income from such lands should be handed over to municipalities.

We understand that in U.P. the State Government transfers nazul land to municipalities for management. This authorises municipalities to give leases subject to such restrictions as the Government may prescribe. The income from leases is distributed between Government and the local bodies in a certain proportion. We recommend the adoption of this method. Two of colleagues are not, however, in favour of the transfer of nazul lands.

212. In the Municipal Acts of Bengal, Bihar and Orissa, it is provided that where the actual cost of the building exceeds one lakh of rupees, the percentage on the annual value to be levied in respect of so much of the value as is in excess of one lakh of rupees shall not exceed one-fourth of the percentage on rate ordinarily leviable on that class of property. No such concession is to be found in the Acts of other States in spite of similarity in economic conditions. It was pointed out to us in evidence in Calcutta that there is no justification for this differentiation. Some witnesses said that it was intended to be a special

concession to jute mills and industrial concerns, when they were first started. That may be so. We see no reason for the continuance of this concession and support the recommendation made by the Secretary to Government Local Self-Government, West Bengal in his note to us:—

> "One provision greatly resented by municipal authorities is the proviso to section 128 (2) by which, when the value of a building or buildings in a holding exceeds 1 lakh of rupees, the rate on that part of the value which is in excess of lakh is reduced to 25 per cent. of what it would otherwise have been. This concession though generally worded, is available only to big industrial and commercial concerns which alone have buildings whose annual values, calculated at 7½ per cent. of capital cost, would exceed Rs. 1 lakh. Mills, factories, workshops, etc., which have their own special arrangements for the treatment and disposal of sewage or which make a lump contribution to the construction of the municipal sewerage system, already enjoy an exemption of 75 per cent. of conservancy rate under section 126 (3), and the further exemption granted by the proviso to section 128 (2) increases the burden on the ordinary ratepayers and makes the tax sharply regressive so far as the big industries are concerned. A comparison with the derating provision of the English Act of 1929 will show that the concession enjoyed by big business concerns in Bengal is much larger than that in England. The 1929 Act provided that property used in the business of mining, manufacture and transport should be valued at 25 per cent. of their net annual rental value for the purpose of rating. These provisions were sought to be justified on two grounds; first, that local government services benefited residents more than industrial concerns, and secondly that it was a recovery measure intended to arrest the decline of British industry. Both the grounds may be assailed on high authority. On the first point it has been observed, "disregarding for the moment the fact that rates are commonly justified on the theory of ability to pay rather than benifit, it is not clear that industrial establishments are in no way responsible for local government cost for education, houses, health and relief. It is true that immediate benefit is accrued to the employees, not to the industrial establishments, but it is also true that these costs are heaviest in industrial cities." (Mabel Newcomer, page 200). As regards the second point it may be said that rates do not bulk largely in factory cost and derating benefits industries irrespective of whether they are prosperous or depressed. If this is true of the provisions of the English Act, it is much more true of the provisions of the Bengal Municipal Act 1932. The difference between the English Act and the Bengal Municipal Act should be noted. Here the 75 per cent. derating which begins after the 1 lakh mark is reached applies to all kinds of buildings, industrial as well as commercial, while the application in England is limited to industries of mining, manufacture and transport. Secondly and even more important from the point of view of local bodies, was the guarantee of compensation contained in the proposed rovision of the system of grants-in-aid by which the actual amount of loss due to derating and to the discontinuance of a large number of allocated grants together with 5 million pounds was to be distributed amongst local bodies according to a certain formula. There can be no legitimate objection to reducing the conservancy rates in case of industrial holdings which have their own sewerage system or

which have contributed to the cost of municipal sewerage but the provision that valuation for rates should be reduced by 75 per cent. over Rs. 1 lakh has no apparent justification and should be done away with. This will immediately put many of the municipalities in industrial areas on sound financial footing."

One of our colleagues, however, is in favour of the continuance of such a concession.

213. **Machinery of assessment, revision and appeal.** The machinery of assessment, revision and appeal varies from State to State according to the category of each local body. Municipal corporations are a class by themselves and have an elaborate machinery which is not to be found in district municipalities. In the Municipal Corporation of Bombay, the Municipal Commissioner who is appointed by Government, is the head of executive administration including the assessment of taxes. Appeals against assessments, made by the Municipal Commissioner, are heard by the Small Causes Court. There is a further appeal, on points of law, to the High Court. In the newly constituted corporations of Poona and Ahmedabad the Bombay model has been followed. Appeals against assessments, made by the Municipal Commissioners, are heard by the Court of Small Causes, and a further appeal lies to the district court.

214. In the Madras Corporation, the Municipal Commissioner is in much the same position as the Municipal Commissioner of Bombay. The main difference between the powers of these two officers lies in respect of appeals against assessments. Appeals against assessments made by the Municipal Commissioner, Bombay lie to the Small Causes Court whereas appeals against assessments made by the Municipal Commissioner, Madras Corporation, lie to the Taxation Appeals Committee, which is a statutory committee of the Corporation, consisting of a Chairman nominated by the Government of Madras and two members elected by the Corporation from among themselves.

In the Calcutta Corporation, the position is theoretically the same as in the Bombay Corporation. The Chief Executive Officer is the final authority in matters of assessment. He is, however, not as independent as the Municipal Commissioners of Madras and Bombay. He is appointed by the Calcutta Corporation for a specified period, with the approval of the Government of West Bengal. Though the powers regarding assessment of taxes are conferred on him by statute, the major portion of the executive powers are delegated to him parodically and are not prescribed in the Act itself, as in the Madras and Bombay Corporation Acts. We were told by persons with experience of that office that the Councillors used this power of delegating authority as a lever for exercising pressure on the Chief Executive Officer in revising; (mostly reducing) assessments against his better judgment. If they found the Chief Executive Officer amenable to pressure they would enlarge his powers. if not, they would take away his powers at the next available opportunity. This practice has been criticised by the Corporation of Calcutta Investigation Commission.

With a view to reconcile democratic control with administrative efficiency, the Investigation Commission consider it essential (1) to separate the policy-making function and the administrative function of the Corporation, and (2) to integrate responsibility with authority by providing a unifying executive head. The Commission also recommend the creation of the post of a Chief Revenue Officer to work under the Chief Executive Officer. This officer will be in charge of all departments concerned with assessment and collection of taxes.

215. In Bombay the responsibility for getting the assessment list prepared lies on the Chief Officer under section 78 (1) of the Bombay Municipal Boroughs Act, 1925. After its preparation, the assessment list has to be published. Any objections received are heard by the Standing Committee, but the Standing Committee may transfer these powers and duties to any other Committee appointed by the Municipality or, with the permission of the Commissioner, to any officer or pensioner of government. After the objections have been disposed of, the list is finalised and authenticated by the signatures of the Chairman and at least one other member of the Standing Committee, or by the signatures of at least two members of the Special Committee or of the officer or pensioner as the case may be. The procedure is more or less similar under the Bombay District Municipal Act, 1901.

216. We are informed that the Government of Bombay have advised all municipalities to entrust the work of preparing assessment list to a Mamlatdar (Tehsildar) nominated by them and the power of hearing objections to a senior Mamlatdar also nominated by them. In this manner they point out that the machinery of asessment in practice has been made independent.

217. In Bombay State, even after the assessment list is finalised, the Acts provide for an appeal by the assessee after the presentation of the bill to him, to a Magistrate, subject to the condition that the objection against the assessment had been made to the Standing Commitee etc. earlier. The decision of the Magistrate, at the instance of either party, is subject to revision by a higher court.

218. In Madras, the independence of the executive has been secured in every district municipalitiy by the appointment of a Municipal Commissioner in whom all executive authority has been vested and who works subject to the administrative control and discipline of the Government of Madras, very much the same as in relation to the Madras Municipal Corporation. He is responsible for the preparation of the assessment list. Objections against any assessments made by him, are, however, heard by the municipal council or by a committee thereof. We were told in evidence that, in several cases, assessments made by the Municipal Commissioner were reduced by the municipal councillors. There is, however, provision under Rule 28 of Schedule IV to the Madras District Municipalities Act for the appointment of a Special Officer by Government to exercise all the appellate powers of the Municipal Council. We were also told that the Government of Madras had actually exercised this power and appointed Special Officers when they considered such a step desirable.

219. In West Bengal the work of assessment is done by an Assessor, whose appointment is made by the municipal council from a panel of Assessors approved by the State Government. Assessments made by this officer are subject to review by the members of the municipality. Objections against assessments made by the Assessor are heard and determined by a commitee consisting of the Chairman and not less than two nor more than four members of the municipality. The decision of this committee is final. There is no provision for any further appeal.

220. In Uttar Pradesh, the responsibility for assessment vests entirely with the municipal boards or municipal councils. There is no system of separation of executive officers rests with the municipal boards. Objections against original assessments are heard and determined by the board or a committee empowered by delegation in this behalf or an officer of government or the board to whom, with the permission of the Divisional Commissioner, the municipal board delegates these powers. Appeals against the decision of this authority are made to the district Magistrate or to any other officer empowered by the Government. Jurisdiction of civil and criminal courts in matters of municipal taxation is barred under section 164 of the U.P. Municipalities Act.

221. Section 162 of the U.P. Municipalities Act, however, provides that if during the hearing of an appeal a question about the liability to or the principle of assessment of a tax arises on which the officer hearing the appeals entertains a doubt, he may, either of his own motion or on the application of a person interested, make a reference to the High Court.

222. In the Punjab, executive administration in important municipalities is vested in an Executive Officer under the Punjab Executive Officerss Act with powers clearly defined under the Act. The Executive Officer is appointed for a renewable term of five years by the Municipal Committee* at a special meeting by five-eights majority. The appointment is subject to the approval of Government. Where, however, within three months from the date of notification by Government applying the provisions of the Executive Officers Act to a municipality, the Municipal Committee fails to make an appointment, the State Government may appoint any person they consider suitable for a renewable term of five years. The Executive Officer may at any time be suspended or removed from office by the State Government and shall be suspended or removed if at a meeting specially convened for the purpose, the Municipal Committee votes in favour of such removal or suspension by a majority of five-eights of the total number of members constituting the committee. Under sub-section (a) to Section 4 of the Executive Officers Act the preparation of the assessment list, hearing of objections and revising the assessment list are vested in the Executive Officer.

223. In municipalities where there are no Executive Officers the responsibility for the preparation of the assessment list, hearing objections and finalisation of list is placed on the Municipal Committee by Section 63 to 68 of the Punjab Municipalities Act. Appeals against assessment in all municipalities lie under section (84) (1) of the Punjab Municipalities Act, to the Deputy Commissioner of the district or to such other officer empowered by the State Government. If, however, the Deputy Commissioner or other authorised officer is or was a member of the committee at the time the tax was imposed the appeal lies to the Commissioner of the division. On points of law, the Deputy Commissioner or other officer hearing the appeal may make a reference to the High Court. As in U. P., jurisdiction of civil courts in barred under section 86 of the Punjab Municipalities Act in matters of valuation or assessment or the liability of any person to be assessed or taxes.

224. In Bihar responsibility under the Act lies on the members of the municipality for the preparation of the list. In practice the municipality applies to the State Government for the services of a sub-Deputy Collector or Deputy Collector to make the assessment. Objections against assessments made by this officer are heard by a committee consisting of not less than three members of the municipality. The decision of this committee is final.

225. Under Section 113 of the Bihar Act whenever it appears to the State Government that the assessment made in any municipality or by an assessor appointed under section 37 is inequitable, the Government may require the municipality to revise and amend such assessment. If the municipality fail to comply with such an order, or in the opinion of government, the revised and amended assessment is insufficient or inequitable, the Government may require the municipality to appoint an assessor of municipal taxes. Under Sub-section (4) of Section 113 the assessment made by an assessor so appointed shall rescind and take the place of the assessment which was held to be insufficient or inequitable.

* In Bombay and Madras the term used is Municipal Council, in Uttar Pradesh and Assam it is Municipal Board ; in Punjab and Madhya Pradesh it is Municipal Commitee. In Bengal, Bihar and Orissa the members are referred to as 'Municipal Commissioners.

226. The Secretary to the Government of Bihar is satisfied with the above system, as would appear from the following extracts from his note to us:—

> "Government have no evidence to show that the assessments made by municipalities are insufficient or inequitable. Under Section 113 of the Bihar and Orissa Municipal Act, 1922, Government have power to intervene when the assessment as carried out by a municipality has been found to be insufficient or inequitable and to have the assessment in that case properly revised. There have been very few cases, if at all, in which Government have found it necesssary to take recourse to the provisions of this section. Municipalities are competent to make their own assessment of taxes, but generally speaking they make request to Government when revision of assessment falls due for the services of Sub-Deputy Collectors or Deputy Collectors to revise their assessment. The assessments made by these officers are subject, later on, to review by Committees of the municipal commissioners, but, as just explained, there have been few cases in which Government have had to intervene under section 113 of the Municipal Act, on evidence having been brought to their notice that the review made by the municipal commissioners in appeal had been inequitable. Thus, there appears to be no evidence to warrant any change in the existing methods of assessment. Indeed, if assessments were made by independent agencies, there might be a risk of their being used as an excuse for low collections".

227. The machinery of assessment in Madhya Paradesh is the same as in Uttar Pradesh and Punjab. The jurisdiction of Civil Courts in matters of taxation is also barred as in Uttar Pradesh and Punjab. The provisions regarding appeals are also the same.

Orissa. In North Orissa which at one time formed part of Bihar, the machinery of assessment is the same as in Bihar. In South Orissa, which at one time formed part of Madras, the machinery of assessment is the same as in Madras State. A new unified Municipal bill for the whole State is on the anvil. Under clause 72 of the bill every municipal council is required to have an Executive Officer who should be a servant of the State Government. Under clause 140 the Executive Officer has to determine the annual value of all holdings and prepare the valuation list. Under clause 152, all objections against the assessment list are to be heard by a committee consisting of not less than three councillors. The decision of the committee is final.

Assam. Under section 73 of the Assam Municipal Act, the municipal board is responsible for the preparation of the assessment list. Objections against such assessments are heard either by a committee of the municipality or by an officer of the Government whose services are lent to the municipality. The decision of the committee or such officer is final. As in Bihar there is a provision in section 77 (b) of the Assam Act conferring powers on the State Government to ask the municipality to revise the assessments where it considers such assessments insufficient and inequitable. The jurisdiction of Civil Courts in matters of taxation is barred in this State also as in Bihar, Uttar Pradesh and Punjab.

228. **Revision of assessment.** The machinary for the revision of assessment is the same as for the original assessment. Except in Calcutta where a period of six years is prescribed and in Bombay City where no period is prescribed, in every other Municipal Act, a period of three to five years is prescribed for the revision of assessments. New properties or additions and alterations to old properties can, of course, be assessed at any time during the currency of an assessment

list but, otherwise, an assessment once made on a property lasts for the prescribed period. The revision and revaluation is also made simultaneously in all the wards of a municipality and not by rotation as is done in Calcutta, namely, one-sixth of the wards in each year. It was brought to our notice that this rotational revision in Calcutta is causing much loss of revenue to the Corporation. The Government of West Bengal has, we understand, issued an ordinance for a general simultaneous revaluation in Calcutta and this is expected to have a beneficial effect on the revenues of the Corporation. We are of the opinion that the Calcutta Municipal Act should be amended so as to bring it into line with the other Acts, *i.e.*, to provide for a simultaneous revision in all wards.

229. **Assessment of properties belonging to Chief Executive Officer.** There is provision in the Madras City Municipal Act and the District Municipalities Act to the effect that the Chief Executive authority should not assess his own properties. Under the proviso to sub-section (3) of Section 99 of the Madras City Municipal Act, 1919 the annual value of any building or land the tax for which is payable by the Commissioner shall be determined by the Mayor in the City of Madras and under the proviso to rule 6 of Part I-Taxation Rules Schedule IV to the Madras District Municipalities Act, 1920 the value of any land or building, the tax for which is payable by the executive authority—commissioner—shall be determined by the revenue divisional officer or, if the revenue divisional officer is also the executive authority, by the council. Such a provision is not found in other Acts. We consider this a very salutary provision and recommend its adoption in relation to property owned by the Chief Executive Authority.

230. **Right of appeal for local bodies.** In no Municipal Act is a revising authority required to state the grounds for any reduction in assessments and valuation which he may sanction. On enquiry we find that though this provision is not required by law in actual practice such reason are generally recorded. The Corporation of Calcutta Investigation Commission have, however, found that in the Calcutta Corporation this is not the practice ; no reasons for reductions are recorded. This appears to us very unsatisfactory. We think that the Acts should be amended to provide for the recording of the grounds for each reduction of valuation or assessment.

231. The Indian Acts do not also allow the right of appeal to a municipality against any reduction in assessments or valuations made by any revising authority. We see no reason why the local body should not also have the right of appeal when it feels aggrieved by any decision of a revising authority. This is is the case in England and we feel that the law in India should be amended accordingly. In view of this recommendation it will become all the more necessary that reasons for reduction of assessment should be recorded by revising authorities.

232. **Creation of a Central Valuation Organisation.** Valuation of property is such a highly technical business that it cannot be entrusted to any person who has not received training, however competent he may otherwise be. There is a great difference between ordinary administrative work and the valuation of immovable properties, particularly, properties other than residential houses. In the determination of their annual value so many principles and standards of valuation have to be applied that the work can not be entrusted even to members of the Civil Services from whom usually Executive Officers of municipalities are recruited. While the taxing authority should continue to be vested in the local bodies, the detailed work connected with the preparation of the valuation list of all the properties within the jurisdiction of a local body should be entrusted to a central organisation (to be created for this purpose) which will consist of trained valuers as in western countries. Even in England, where local bodies are tenacious of their rights, the task of valuation has been taken away form them under the local

Government Act of 1948 and vested in the Board of Inland Revenue. We are of the opinion that a similar step should be taken in each State in India. A valuation department should be brought into being for all the local bodies within the State. Its duty will be to see that the valuation list is correct and up to-date for each local body. The valuation list as prepared by this department should be forwarded to the local body concerned and should be published. Any person, including the local body, itself, will have the right to object to any valuation included in that list. But it will be not open to the local body to alter any entry as made by the Valuation Department. It will have to make a representation against such entry and if the Valuation Department is not satisfied with the objection and the local body or the person making the objection feels aggrieved by such action it will have the right to appeal to a local tribunal called the local valuation court. The decision of the valuation court will be final on points of fact. On points of law an appeal might be allowed to a District Court, or even to a High Court, as may be deemed proper. But no person will have the right to withhold the payment of the tax pending the disposal of his appeal. What the constitution of the local valuation court should be, is not a matter into which we need enter. This can be dealt with by the State Government. It should be a tribunal in whose independence and fairness of judgement both parties have confidence. The creation of a trained staff of land valuation experts is a matter of time. In three or four years the scheme should begin to work satisfactorily.

233. The position is not very dissimilar from that which existed in relation to assessment of income tax prior to the creation of a separate Income Tax Department when the work was done by the District Collectors. The income-tax collected was very small but with the formation of a separate Income Tax Department and the special training given to Income Tax Officers, the yield of income tax has increased enormously. We expect that with the creation of a separate department of land valuation, the income from property tax in every municipality will increase very considerably and the complaints now generally heard of under-assessment and partiality in assessment will become a thing of the past.

234. Some of our colleagues do not support the above recommendation.

PROPERTY TAX—GENERAL—PART II

235. In Part I a general survey of the position with regard to the levy of property tax has been given. It was not possible to include therein particular features relating to each State, which are not necessarily the same all over the country. As, however, the subject is one which peculiarly concerns each State and has to be dealt with due regard to the statutory provisions and administrative practice prevailing in each, it is necessary, in order that the subject may be properly appreciated, to deal with the special features governing the levy of property tax in each state. A State-wise survey is accordingly given below.

1. MADRAS

236. Property tax is levied by all district municipalities under Section 81 of the Madras District Municipalities Act 1920. It is levied on all buildings and lands within municipal limits save those exempted by or under the Acts or any other law. The property tax comprises :—

(*a*) a tax for general purposes ;
(*b*) a water and drainage tax ;
(*c*) a lighting tax ;
(*d*) a scavenging tax.

Items (*b*), (*c*) and (*d*) are intended to provide for the expenses in connection with the provision of the respective services. In addition there is an education

tax levied as a percentage of the property tax or profession tax under Section 37 of the Madras Elementary Education Act, 1920.

237. **Rates.** No maximum or minimum rates are prescribed in the Act as in the case of Madras City Corporation. Under section 81-A of the Madras District Muuicipalities Act, 1920 as amended in 1944, the State Government has power to fix tho rate of property tax in any mofussil municipality at such rate as it may deem desirable without the consent of the Municipal Conncil. In exercise of this power, Government has in recent years increased tho rate of property tax in several municipalities.

238. The tax is levied by all municipalities in the State at rates varying from 12 per cent. (inclusive of education tax) in Chirala to 27 per cent. (inclusive of education tax) in Nagapattinam of the annual rental value. The education tax is also levied at varying rates.

239. Under the proviso to sub-section (1) of Section 84 the aggregate property tax leviable in the case of lighthouses, piers, wharves, jettios and passenger sheds, latrines, cart-stands, retiring rooms and platforms belonging to a railway administration shall not exceed 4 per cent. of their annual value.

240. **Income**. The income derived from property tax by district municipalitios in Madras in 1946-47 is shown below :—

Name of Tax	Receipts in 1946-47 Rs.	Percentage of total income from rates and taxos which each sourco represents
(1) Goneral Tax.	6,941,582	27.09
(2) Water & drainago tax.	3,053,109	11.90
(3) Conservancy rate (scavenging tax).	963,816	3.70
(4) Lighting tax.	5,434,726	21.20
Total receipts from property tax in 1946-1947.	16,398,233	63.89

In 1884-85 the property tax levied by district municipalities in Madras yielded an income of Rs. 4,27,803 and formed 42.5 per cent. of the total income from rates and taxes. The percentage now is 63.50. It will, therefore, be obvious that both the yield from this source and its importance have grown.

241. **Remissions.** The owner is entitled to vacancy remission if the building has been vacant and unlet for 30 or more consecutive days in any half year, the remission being proportionate to the number of days during which the building was vacant or unlet.

242. **Basis of assesment.** The basis of assesment in Madras district municipalities is the gross annual rent at which lands and buildings may (at the time of assessment) reasonably be expected to let from month to month or from year to year, less a deduction (in the case of buildings only) of 10 por cent. on such annual rent, provided that (a) in the case of (i) any Government or railway building ; or (ii) any building of a class not ordinarily let, the gross annual rent of which cannot in the opinion of the Commissioner be estimated, the annual value of the premises shall be deemed to be six per cent. of the total of the

estimated market value of the land at the time of assesment and the estimated cost of erecting the building at such time after deducting for depreciation a reasonable amount which shall in no case be less than ten per cent. of such cost, and (b) machinery and furniture shall be excluded from valuation.

243 Agricultural lands are assessed to property tax on the basis of their annual value, which is the land revenue plus the water rate payable to Government. Nonagricultural vacant lands are assessable either on the basis of their extent or on the basis of their capital value and not on the basis of their anuual value.

244. **Machinery of assessment.** In district municipalities there are paid Executive Officers designated as 'Commissioners', appointed and controlled by Government. The Government of Madras consider that the assessments of property made by these Commissioners are adequate. Appeals against assessments lie to the Municipal Councils or to Committees appointed by them. Sometimes the assessments are reduced on appeal. Where it appears to the State Government that municipal councils have abused their appellate powers to any appreciable extent, they appoint a special officer, in exercise of the power conferred under Rule 28 (a) of Schedule IV to the Madras District Municipalities Act, 1920 to exercise the appellate powers of the municipal councils. Where the abuse of powers by the municipal council is persistent, Government supersede the municipal council. There is no provision for a judicial appeal in matters of assessment.

245. The revision of assessment is quinquennial and is done by the same machinery as does the original assessment and is subject to the same rights of appeal, etc.

246. **District Boards.** The only property tax levied by District Board is the local fund cess, which is dealt with separately.

247. **Village Panchayats.** House tax is compulsory in all village panchayats under the Madras village Panchayats Act, 1950. It is levied every half year at such rates as may be fixed by the panchayat not being less than the minimum rates and not exceeding the miximum rates prescribed by Government. The house tax is levied on all houses as well as huts in the village either on the basis of annual value, or on the basis of capital value, or such other basis as may be prescribed. All notified major panchayats have Executive Officers appointed and controlled by Government. They are responsible for assessment. The Government of Madras consider that assessment of house tax in all the bigger panchayats is adequate.

2. BOMBAY MUNICIPAL BOROUGHS AND DISTRICT MUNICIPALITIES

248. When the Committee took evidence in Bombay, there was only one Municipal Corporation, i. e. the Bombay City Corporation. Since then the Bombay Legislature has passed a new Act known as the Bombay Provincial Municipal Corporation Act, 1949, under which municipal corporations can be established in other cities also. Two new corporations at Ahmedabad and Poona have since been established under this Act. The powers of taxation of these two corporations are the same as of the municipal boroughs including the power to levy property tax on a graduated scale. The minimum rate of the general tax prescribed under the Act is 12 per cent. Bosides the Act permits the Corporations to levy the general tax on buildings and lands in which a particular class of tra- business is carried on at higher rates, but not more than 50 per r ordinary rates. The position regarding the assessment and col- same in the Poona Corporation as in the Bombay Corporation. S of provides for an appeal against the valuation of any property

Court. A further appeal is provided under Section 411 from an order of the Judge of the Small Causes Court to the District Court in respect of any dispute about the valuation of a property, the rateable value of which has been fixed at a sum exceeding two thousand rupees and in respect of all properties upon a question of law or usage having the force of law or the construction of a document.

249. As in the City of Bombay, buildings and lands used for the disposal of the dead, buildings and lands solely occupied and used for public worship or for a public charitable purpose are exempt from the general tax on property.

250. Under rule 56 of the Taxation Rules, Chapter VIII to the schedule in the Provincial Corporations Act, when any building or land or any portion of such premises has been vacant for not less than sixty consecutive days the Commissioner shall refund two-thirds of the amount of the general tax, if any, paid for the number of days that such vacancy lasted.

251. Property tax is levied in municipal boroughs and district municipalities under section 73 and section 59 of the Bombay Municipal Boroughs Act, 1925 and the Bombay District Municipal Act, 1901 respectively. The tax is optional in both cases but all municipalities are levying it. No maximum or mirimum rates are prescribed.

252. **Rates.** The rates prevalent in some of the municipalities are given below :—

BROACH. The tax is levied on a progressive basis on the capital value, ranging from Re. 1 in the case of residential or rented houses of the capital value of which is between Rs. 300 to Rs. 800 to Rs. 49 in the case of houses the capital value of which is between Rs. 19,000 and Rs. 20,000 and thereafter at rates of Rs. 5, 6, 8 and 10 for every thousand or fraction of a thousand of the capital valuation of houses between Rs. 20,000 and Rs. 30,000, Rs. 30,000 and Rs. 40,000 and Rs. 40,000 and Rs. 50,000 and above Rs. 50,000 respectively. The rate in respect of buildings or lands or portions thereof used for business or industrial purposes is 1½ times the rate mentioned above for ordinary properties.

SATARA. The rates of house tax at present prevalent are those fixed in 1891. The rates vary from 0-8-0 in the case of houses, the annual rent of which is between Rs. 6 and Rs. 12 to Rs. 8 between Rs. 96 and Rs. 108 and in the case of houses the annual rent of which exceeds Rs. 108 at 8%.

DHARWAR. 9% of the annual letting value.

BELGAUM. 6¼% in the case of houses with an annual letting value from Rs. 12 to Rs. 50 and rising to 11% in the case of those above letting value of Rs. 301 and above.

HUBLI. Consolidated rate of 25%.

NASIK. 9-3/8% of the letting value.

253. In Ahmedabad municipality (Corporation from 1.7.1950) there is at present no house tax. Only a water rate is levied. There is, however, the usual urban immovable property tax levied by the State Government in Ahmedabad and Poona. The rate payable in some of the smaller municipalities was as high as 25% in Hubli and the Municipal Commissioner, Poona was of the opinion that Poona cannot bear a higher rate than 15%, which is the rate levied at present.

254. The Government of Bombay noticed considerable variations from municipality to municipality, even at times justifiable, between municipalities in

the same district, in the rate of taxation based on letting values. With a view to removing such anomalies, the Government has by an executive order directed that municipalities should levy a consolidated rate on buildings and lands of not less than 20% of their annual letting value or 1.5 per cent of the capital value and that the consolidated rate should take the place of (*a*) house tax (*b*) general sanitary cess (*c*) general water rate and (*d*) lighting tax. In case of refusal on the part of a municipality to so raise the taxes, the State Government has informed them that they will withdraw all voluntary grants. The Government has further directed that in the case of business premises the rates should be 50% more than on other kinds of premises.

255. **Income.** The income from property taxes was Rs. 270,162 and Rs. 10,242,827 in the years 1884-85 and 1944-45 respectively and formed 19% and 48% respectively of the total taxation income of municipalities in Bombay. The corresponding percentages for Madras are 42·5% and 63·8%. It will be seen therefore that the tax is not levied at the same rate and to the same extent at which it is levied (in municipalities) in Madras.

256. **Exemptions.** No list of exemptions is specified in the Acts but under section 75 (*a*) and section 60 (*a*) (*iii*) of the Bombay District Municipal and Borough Municipal Acts respectively it is left to the discretion of the municipality to provide for such exemptions as they like, subject to the approval of the State Government. It is understood that, as a matter of practice, exemptions from property tax are given in very much the same cases as in the Bombay Corporation.

257. **Remissions.** Sections 86 and 69 of the Bombay Municipal Boroughs and District Municipal Acts respectively provide for a remission of property tax in respect of a building which has remained vacant and unproductive of rent throughout the year or portion of the year.

258. **Basis of assessment.** In the Bombay Municipal Boroughs Act, the basis of assessment is not specified but is left to be determined by each municipality. It is generally either the annual letting value of the capital value, in most cases the former. The annual letting value is defined in section 3 of the Act as the annual rent for which any building or land, exclusive of furniture or machinery, might reasonably be expected to let from year to year, and shall include all payments made or agreed to be made by a tenant to the owner of the building or land on account of occupation, taxes, insurance or other charges incidental to tenancy. Under section 78, clause (2) where annual letting value is used as the basis a sum equal to 10% of the said valuation is deducted in lieu of allowance for repairs or any other account whatsoever.

259. The provisions in this matter in Bombay district municipalities are the same as for municipal boroughs.

260. There is no separate provision in the Bombay Acts regarding the basis of assessment of open lands.

261. As the cities of Ahmedabad, Poona and Sholapur present special problems in respect of the variety of properties to be valued, the present practice in the matter of assessment in these cities is described below :—

Ahmedabad. The Ahmedabad Municipality does not levy any separate house tax as such. It levies a fairly heavy general water rate on properties.

For the purpose of the levy of the general water rate the properties are divided in three classes as given below :—

(1) All non-residential buildings belonging to mills and factories, except hotels, shops, stalls and stables, but including tanks, out-houses, store-yards, etc., and open yard and lands appertaining thereto and in the case of all open yards and lands belonging to the railway company.

	House tax	water rate	Conservancy rate
Midnapore	7½%	6½%	7%
Burdwan	7½%	6%	7%
Murshidabad	6%	...	7%
Krishnagar	7½%	7½%	7%
Horah	consolidated rate of 21¾%		

265. **Income.** The average annual income from property taxes of district municipalities in West Bengal for the years 1946-47 and 1948-49 are given below :-

Tax	Average income	Percentage of yield to average annual income
(a) Tax on houses and lands	4,955,765	37.3
(b) Water rate	976,435	7.4
(c) Lighting rate	347,643	2.6
(d) Conservancy (including scavenging and latrine rate)	1,742,400	13.1.

266. **Exemptions.** Under Section 124(b) of the Act no property tax is payable by any holding which is used exclusively as a place of public worship, to which the public has a right of free access without payment or as a mortuary or as a burial ground or burning ground duly registered under the Act. A municipality has also the power to exempt either wholly or partially from the rate on holdings any holding which is used exclusively for purposes of public charity. Further exemptions may be granted where the annual aggregate value of all the holdings held by any one owner does not exceed Rs. 6.

267. **Remission.** When any holding has been unoccupied and unproductive of rent for sixty or more consecutive days, the municipality shall refund three-fourths of the amount due on account of such period. There is also provision for remission on ground of excessive hardship.

268. **Basis of assessment.** The basis of assessment is the annual value of a holding as mentioned above. The term 'annual value' is defined in section 128 as the 'gross annual rental at which the holding may reasonably be expected to let'. There is no provision in this Act for any deductions on account of repairs or maintenance charges. In other Act 10% is allowed. It is further provided that if such gross annual rental value cannot, in the opinion of the Assessor, be easily estimated or ascertained, the annual value of such holding shall be deemed to be an amount which may be equal but may not exceed 7½% of the value of the building or buildings on such holding at the time of such assessment plus a reasonable rent for the land comparised in the building. There is a further proviso that, where the value of a building or buildings on a holding exceeds one lakh of rupees the percentage of annual value to be levied in respect of so much of the value as is in excess of one lakh of rupees shall not exceed ¼% of the percentage levied on other buildings.

269. **Machinery of assessment.** Under Section 145 the State Government prepares a list of persons qualified in its opinion to be appointed as Municipal Assessors. When a new valuation list has to be prepared for any municipality

the Municipal Commissioners have to appoint a person from this approved list on such salary and with such establishment as may be fixed by them with the approval of the State Government. Any other person may also be appointed as an Assessor with the approval of the State Government. When the assessment list is prepared it it is published and objections invited from the public. All applications for revision are heard by a Committee consisting of the Chairman and from two to four Commissioners. It is provided in section 151 that when an objection to an assessment as valuation has been made, the rate shall, pending the final determination of the objection, be paid on the previous assessment or valuation. There is an apparent conflict between sub section (4) of section 149 which says that the decision of the Review Committee is final and clause (c) of sub section (1) of section 138 which say that the Municipal Commissioners may at any time alter the valuation or assessment on any holding, which, in their opinion, has been incorrectly valued or assessed. We are informed that by interpretation the application of section 138 (1) (c) has been restricted only to cases where no objection has been preferred. Once objections are preferred and have been finally determined by the Review Committee, no further appeal lies to the Municipal Commissioners.

270. There does not also seem to be any provision in the Bengal Municipal Act for a definite period after which the original assessment should be revised as there is in the Calcutta Municipal and other Municipal Acts.

4. UTTAR PRADESH

271. Property tax is levied in Municipalities in Uttar Pradesh under Section 128 of the U. P. Municipalities Act. Under the Act, the levy of property tax is optional and not complusory. The State Government has concurrent power to impose the tax and prescribe the rates. No maximum or maximum rates are prescribed in the Act. The general property tax has not been used to any appreciable extent by municipalities in this State. It is levied only in 33 out of 110 municipalities. Tho rates of tax in the various municipalities generally range between 2½% and 15%. A progressive scale of rates is adopted in some municipalities e.g., Lucknow, where the rate varies from 3¼% of the annual value on lower rentals to 15% of the annual value on houses with a rental of Rs. 1800 per annum of above.

272. The tax was levied in 18 municipalities in 1908-09 and the present position does not appear to be much of an improvement on what it was three or four decades back. While in some cases there has been some increase, in the majority of cases tbe rates of tax have remained where they were in 1908-09, in fact in some cases, there has been a reduction as shown below :—

Name of Municipal Board	Rate in force 1908-09	1948-49
1. Mussorie	7½	6¾
2. Saharanpur	7½	7½
3. Roorkee	6	3¾—7½
4. Muzaffarnagar	4-11/16	4¾
5. Meerut	6¼	6¼
6. Bareilly	5	7½
7. Sahaswan	2½	No house tax
8. Ujhani	2½	do
9. Kanpur	3-1/8	6¾
10. Allahabad	4½	4-1/16
11. Jhansi	5	3-1/8—5

Name of Municipal Board	Rate in force 1908-09	1948-49
12. Orai	5	5
13. Banaras	1 to 3 1/8	1-9/6 to 4½
14. Nainital	10	10
15. Unnao	7½	7½
16. Hardoi	5	No house tax
17. Shahabad	7½	No house tax
18. Lakhimpur	6¼	5—6¼

273. Commenting on this inadequate utilisation of a potentially prolific source of municipal income, the U. P. Municipal Taxation Committee (1908-09) pointed out that the tax is exceedingly unpopular. They gave several reasons why this was so. In the first place was the difficulty of assessing the annual rent value in a country, "where it is the custom to own rather than rent dwelling houses", and consequently the assessment was more a matter of guess work than scientific deduction. Secondly, the owning of a house in this country did not indicate the occupier's ability to pay. They quote Professor Bonar who wrote :

> "It is really on the whole a faithful index for the middle classes, who are the great bulk of the ratepayers ; it is less so for the very rich, and hardly so at all for the very poor."

Further, they observe that there was no custom of changing residence with variation in means, as there is in Western countries. The poor man may become rich but he will continue to live in his ancestral hovel. Conversely, the descendant of the rich man may become miserably poor and find it difficult to supply himself with the necessaries of life, but he will not desert the ancestral home. They also dilated at length on the difficulties in the matter of recovery of taxes by distraint which is looked upon as particularly odious and opprobrious. Taking all these facts and arguments into consideration, the Committee were of the opinion that though the house tax could not be looked upon as a general substitute for octroi, in certain exceptional cases, where cities are developing and prosperity is general this form will probably prove a productive source of municipal revenue.

274. They were further of the view that the difficulties in the matter of assessment were not insuperable. One advantage of the house-tax, in their view, as against a tax on circumstances and property, was that the house was there to be inspected for varification and a security for municipal claims. They added that in the case of the larger commercial centres and of towns which have progressed rapidly during the last half century, the general level of prosperity is high, and the people do in fact occupy houses of a value roughly commensurate with their means, and thus it was in these cases an index on ability to pay.

275. In his reply to an item in the questionnaire on this point, the Secretary to the Government of Uttar Pradesh in the Municipal Department stated that :—

> "It is generally recognised that house tax should form the mainstay of local bodies revenue. As sach, it should be compulsorily levied on all house property both in the urban as well as rural areas."

276. The U.P. Pay Committee for Employees of Local Bodies (1948) has also made the following remarks* in its report :—

*Page 63 of the Report.

"There are several sources in municipalities which have not yet been fully tapped. One of these sources is the house tax which is not levied at present in as many as 53 municipalities. We strongly recommend that all municipalities must impose house tax compulsorily at rates ranging from 6¼% to 15% on a sliding scale varying with the annual value of the building according to local condition and requirements.

This measure would give an extra income of Rs. 1,34,00,000."

277. We have accepted this suggestion for the compulsory levy of house tax and dealt with it in the general survey.

278. Income from the general property tax amounted to Rs. 905,135 and formed 8.8% of the total income in 1925-26. The total yield of this tax for the years 1945-46 and 1946-47 was Rs. 18 lakhs and 24 lakhs, respectively, which means an average of Rs. 21 lakhs, *i.e.*, more than 5% of the total annual income of all municipal boards in the State. It will be clear that this source has not been fully exploited by municipalities in the State.

279. **Exemptions**—Under Section 157 of the Act: (1) a board may exempt, for a period not exceeding one year, from the payment of a tax, or any portion of a tax, imposed under this Act, any person who is in its opinion, by reason of poverty, unable to pay the same and may renew such exemption as often as it deems necessary.

(2) a board may by a special rasolution confirmed by the Commissioner exempt from the payment of a tax or any portion of a tax, imposed under this Act any person or class of persons or any property or description of property.

(3) the State Government may by order exempt from the payment of a tax, or any portion of tax, imposed under this Act, any person or class of persons or any property or description of property.

We are of the view that where an exemption is granted at the instance of the State Government, which has not been proposed by the municipality, the municipality should be given compensation to that extent by the Government.

As regards sub-clause (2) we are of the view that it should be retained. Two of our colleagues dissent from this view, as in their opinion the power of exemption in individual cases should not rest with the municipality. Another colleague is of opinion that the power of exemption should absolutely vest in the municipality and the Commissioner should have nothing to do with it.

280. Under section 151 (1) of the Act, when, in a municipality other than one situated wholly or partly in a hill tract, a building or land has remained vacant and unproductive of rent for ninety or more consecutive days during any year, the board shall remit or refund so much of the tax of that year as may be proportionate to the number of days that the said building or land has remained vacant and unproductive of rent. Remsisions are also granted in the case of partial vacancies, *i.e.*, when only a portion of any land or building has remained vacant or unproductive of rent.

281. **Basis of assessment.** The house tax is assessed on the annual value of all lands and buildinds. This is the one and only basis prescribed in the Act. Annual value is defined in Section 140 as:

(1) in the case of railway stations, hotels, colleges, schools, hospitals, factories and other such buildings, a proportion not exceeding five per cent. to be fixed by rule made in this behalf of the sum obtained by adding the estimated present cost of erecting the building to the estimated value of the land appurtenant thereto;

(*b*) in the case of a building or land not falling under (a), the gross annual rent for which such building, exclusive of furniture or machinery therein, or such land is actually let, or where the building or land is not let or in the opinion of the board is let for a sum less than its fair letting value, might reasonably be expected to let from year to year.

There is also a provision enabling a board in exceptional circumstances to reduce the amount of the annual value of any building or land to an equitable amount when the annual value arrived according to the normal procedure would be excessive.

282. **Machinery of assessment.** In municipalities in this State there is no separation of executive from deliberative functions as in the City Corporations of Bombay and Madras and in district municipalities in Madras where the executive authorities are quite independent of the local bodies concerned being appointed and removed by the State Government. The statutory obligation for the preparation of the original assessment list rests on the Boards. For the purpose of assessment, the Board may appoint any person or persons, with or without remuneration, whether members or not. The persons so appointed have the right to inspect the properties to be assessed When the assessment list has been prepared, the Board is required to publish it. Objections to an assessment or valuation contained in the list have to be made to the Board. The Board may, under Section 143 (3) either by itself, or by a Committee empowered by delegation or an officer of Government or the Board to whom, with the permission of the Commissioner, the board delegates powers, investigate and dispense of the objections and cause the necessary consequential alterations or amendments to be made in the list, after allowing the objector an opportunity of being heard in person or by agent.

283. Under section 145 an assessment list has ordinarily to be prepared once in every five years.

284. **Appeals.** After an objection has been disposed of under section 143, any person aggrieved may file an appeal against the assessment or an alteration of an assessment to the District Magistrate or to such other officer as may be empowered by the State Government in this behalf. Under section 162, if during the hearing of an appeal under section 160 by the District Magistrate or other authority a question as to the liability to, or the principle of assessment of, a tax arises on which the officer hearing the appeal entertains reasonable doubt, he may, either of his own motion or on the application of a person interested, draw up a statement of the facts of the case and the point on which doubt is entertained and refer the statement with his own opinion on the point for the decision of the High Court. Under Section 164 the orders passed by the authority under Section 160 are final; no objection to a valuation or assessment can be taken to any other court.

5. PUNJAB

285. Property tax is levied by a few municipalities in the Punjab under section 61 (1) (a) of the Punjab Municipalities Act, 1911. The general property tax is described as a tax payable by the owner on buildings and lands not exceeding twelve and a half per cent. on the annual value. In addition, in the hill Municipalities of Dharamsala, Dalhousie and Simla, a tax may be levied at a rate not exceeding one anna and four pies and in other municipalities at one anna per yard of the ground area or not exceeding in the hill municipalities of Simla, Dharamsala and Dalhousie four rupees and in other municipalities three rupees per running foot of frontage in streets or bazars. In Simla, or in any part thereof, a tax may be imposed both on buildings and on lands. The tax is payable by the owner ; except where in the case of lands and buildings the occupants are tenants in perpetuity, the tax is payable by such tenants.

286. As already stated, the property tax is not widely prevalent in the Punjab due to popular opposition to direct taxation. The main source of municipal income is octroi and terminal taxes and real estate occupies a much less important position among local taxes.

287. As in West Bengal and Bihar, there is also a statutory maximum on the rate of the tax.

288. The Government of Punjab have stated in reply to a query that in order to compel municipalities to impose property tax coercive action in the shape of withdrawal of discretionary grants, etc, would be feasible. On account of the dislocation caused by the partition of the State and its aftermath complete statistics are not available to illustrate how far house tax is leviedby municipalities in the State. But out of the 22 municipalities which had replied to the questionnaire issued by us, house tax is levied only in the undermentioned municipalities at the rates shown against each:—

Amritsar	10%
Simla	10%
Ambala	6¼%
Jullundur	12½% (maximum permissible)
Ludhiana	(rate not known)
Kalka	10%
Shahabad	12½%
Sirsa	2%
Hansi	4-11/16%

Almost all the municipalities that have sent in replies except Panipat, Urmar, Tanda, Thanesar and Gurdaspur are of the opinion that a house tax should be compulsorily levied. The excepted municipalities are emphatically opposed to the house tax. The opposition of the Gurdaspur Municipality is qualified in that it is prepared to levy a house tax if the Urban Immovable Property Tax levied by the State Government is withdrawn.

289. **Income.** The income from property tax in 1925-26 in undivided Punjab was Rs. 814,135 and it formed 10.7% of the total income from taxation of municipalities in the State. In 1946-47 the income from the 13 districts which now form Punjab (I) was Rs. 937,024 and it formed 17.4% of the total income from taxation.

290. **Exemptions.** The Punjab Municipalities Act does not give a list of exemptions from property tax. Under clause (c) of sub-section (2) of section 70 of the Act, a municipality may by a resolution passed at a special meeting and confirmed by the State Government exempt in whole or in part from the payment of any tax, any person or class of persons or any property or description of property.

291. Under sub-section (1) of section 71 the State Government may by order exempt in whole or in part from the payment of any tax any person or class of persons or any property or description of property.

292. **Remissions.** Under sub-section (1) of section 72 when any property assessed to a property tax or ground rent under clause (a) of sub-section (1) of section 61, which is payable annually or in instalments, has remained unproductive of rent and unoccupied throughout the year or the period in respect of which any instalment is payable, the committee shall remit the amount of the tax or of the instalment as the case may be.

293. Under clause (a) ibid when any such property or portion thereof has not been occupied or productive of rent for not less than sixty consecutive days or is wholly or in greater part demolished or destroyed by fire or otherwise, the Committee may remit such portion of the tax or instalment as it may think equitable.

294. **Basis of assessment.** The basis of assessment mentioned in Section 61 (1) (a) (i) is the annual value. Annual value is defined in sub-section (1) of Section 3 as follows :—

(1) "annual value" means :—

(a) in the case of land, the gross annual rent at which it may reasonably be expected to let from year to year :—
Provided that in the case of land assessed to land revenue or of which the land revenue has been wholly or in part released, the annual value, shall, if the Provincial Government so direct; be deemed to be double the aggregate of the following amounts, namely :—

(i) the amount of the land revenue for the time being assessed on the land, where such assessment is leviable or not; or when the land revenue has been wholly or in part compounded for or redeemed the amount which, but for such composition or redemption, would have been leviable ; and

(ii) when the improvement of the land due to canal irrigation has been excluded from account in assessing the land revenue the amount of owner's rate or water advantage rate, or other rate imposed in respect of such improvement;

(b) in the case of any house or building, the gross annual rent at which such house or building, together with its appurtenances and any furniture that may be let for the use or enjoyment therewith, may reasonably be expected to let from year to year, subject to the following deductions :—

(i) such deduction not exceeding 20 per cent. of the gross annual rent as the committee in each particular case may consider a reasonable allowance on account of the furniture let therewith;

(ii) a deduction of 10 per cent. for the cost of repairs and for all other expenses necessary to maintain the building in a state to command such gross annual rent. The deduction under this sub-clause shall be calculated on the balance of the gross annual rent after the deduction (if any) under sub-clause (i) ;

(iii) where land is let with a building, such deduction not exceeding 20 per cent. of the gross annual rent, as the committee in each particular case may consider reasonable on account of the actual expenditure, if any, annually incurred by the owner on the upkeep of the land in a state to command such annual rent;

Explanation—I. For the purpose of this clause it is immaterial whether the house or building, and the furniture and the land let for use or enjoyment therewith, are let by the same contract or by different contracts whether such contracts are made simultaneously or at different time.

Explanation—II. The term "gross annual rent" shall not include any tax payable by the owner in respect of which the owner and tenant have agreed that it shall be paid by the tenant.

(c) in the case of any house or building, the gross annual rent of which cannot be determined under clause (b), 5 per cent. on the sum obtained

by adding the estimated present cost of erecting the building, less such amount as the committee may deem reasonable to be deducted on account of depreciation (if any) to the estimated market value of the site and any land attached to the house or building.

Provided that :—

(i) in the calculation of the annual value of any premises no account shall be taken of any machinery thereon ;

(ii) when a building is occupied by the owner under such exceptional circumstances as to render a valuation at 5 per cent. on the cost of erecting the building less depreciation excessive, a lower percentage may be teken".

It will be seen from the above extract that a agricultural land in municipal areas is as much liable to property tax as non-agricultural open land.

295. In the case of premises which are not let and in respect of which the determination of annual value is not possible in accordance with clause (b), the annual value is assumed to be 5% of the present capital cost of the building. In the case of owner occupied buildings, discretion is allowed to the municipality to fix a lower percentage.

296. The annual value is generally assumed to be the actual rent unless there is reason to believe that the actual rent is absurdly low and there is collusion between the landlord and tenant.

297. **Machinery of assessment.** Under sections 63 to 68 of the Act the responsibility for the preparation of the assessment list, hearing objections against it and the finalisation of the list is placed on the municipal committee. The committee is required to give an opportunity to any person interested in such amendment or alteration to be heard. The assessment list need not be revised every year ; in fact no period has been prescribed in the Act for the preparation of a fresh assessment list.

298. In some of the major municipalities, however, the Punjab Municipal Act, 1931 has been applied. Under sub-section (a) of section 4 of this Act, the powers of preparing the assessment list, hearing objections and revising the list specified in sections 63 to 68 of the municipalities Act are vested in the Executive Officer. The Executive Officer is appointed for a renewable term of five years by the Municipal Committee at a special meeting by five-eights majority ; the appointment is subject to the approval of the State Government. Where, however, within three months of the date of notification by Government applying the provisions of the Executive Officer Act to a municipality, the Municipal Committee fails to make an appointment, the State Government may appoint any person they consider suitable as Executive Officer for a renewable term of five years. The Executive Officer may at any time be suspended or removed from office by the State Government and shall be suspended or removed if at a meeting specially convened for the purpose, the Municipal Committee votes in favour of such removal or suspension by a majority of five-eights of the total number of members constituting the committee. Section 4 of the Act vests the entire power for the execution and carrying on the administration of the municipality subject to the provisions of the municipal Act or any rules made thereunder in the Executive Officer and the power of assessment and revision is one of the powers so delegated to him statutorily. It will thus be seen that in municipalities where there is an Executive Officer, the assessing and revising authority enjoys a reasonable degree of independence and freedom from interference by Councillors.

299. **Appeals.** Under section 84 (i) an appeal against an assessment or levy of any tax or against the refusal to refund any tax under this Act lies to the Deputy Commissioner or to such other officer as may be empowered in this behalf by Government. If, however, the Deputy Commissioner or the other authorised officer is or was a member of the committee at the time the tax was imposed, the appeal lies to the Commissioner of the division.

300. Under sub-section (2) of the above section it is provided that if, at the hearing of an appeal under the section, any question as to the liability to, or the principle of assessment of a tax arises on which the officer hearing the appeal entertains reasonable doubt, he may, either of his own motion or on the application of any person interested, draw up a statement of the facts of the case and the point on which doubt is entertained, and refer the statement with his opinion on the point for the decision of the High Court.

The above mentioned provisions are similar to the provisions in section 163 of the U.P. Municipalities Act, 1916.

BIHAR

301. The general property tax called "a tax on holdings" is levied by municipalities in Bihar under clause (*b*) of sub-section (*i*) of section 82 of the Bihar and Orissa Municipal Act, 1922. Clause (*a*) of the said sub-section states that "a tax upon persons in sole or joint occupation of holdings within the municipality according to their circumstances and property within the municipality :" may also be levied. The proviso to the section lays down that the tax on holding and the tax on persons shall not be levied in the same ward. It will further be seen that while the tax on holdings is a tax on owners of property, the tax on persons is a tax on occupiers of property. Section 84 provides that the tax on holdings shall not be imposed at more than twelve and a half per cent. on the annual value.

302. The tax on holdings is widely prevalent, while the tax on persons is levied only in some municipalities. The tax on holdings was levied by all municipalities in 1943-44 except one and all Notified Area Committees except one at rates shown against each :—

Statement showing the rates of levy of the tax holdings by municipalities in Bihar

Name of Municipality	Rate of the tax on holdings in 1943-44	Present rate of the tax on holdings where known
1. Patna City.	9½%	12½%
2. Barh (only on Government and public bodies buildings.)	7½%	
3. Bihar.	7½%	
4. Dinapur Nizamat.	7½%	
5. Khagaul.	7½%	
6. Patna Administration Committee.	7½%	
7. Gaya.	7½%	12½%
8. Tekari.	7½%	
9. Arrah.	7½%	10%
10. Daudnagar.	10%	
11. Jagdishpur.	10%	
12. Buxar.	10%	
13. Dumraon.	10%	
14. Bhabua.	10%	

Name of Municipality	Rate of the tax on holding in 1943-44	Present rate of the tax on holdings where known
15. Sasaram.	10%	
16. Dehri-Dalmianagar N. A. C.	7½%	
17. Chapra.	7½%	
18. Revelganj.	7½%	
19. Siwan.	7½%	
20. Motihari.	7½%	10%
21. Bettiah.	7½%	12½%
22. Luathaha Notified Area Committee.	7½%	
23. Muzaffarpur.	7½%	12½%
24. Hajipur.	7½%	10½%
25. Lalganj.	7½%	7½%
26. Sitamarhi.	7½%	
27. Dumara N. A. C.	7½%	
28. Dharbhanga.	7½%	10%
29. Madhubhani (Govenment and public buildings only)	10%	
30. Reserah. (Government and public buildings only)	10%	
31. Samastipur. (Government and public buildings only)	10%	
32. Monghyar.	7½%	
33. Jamalpur.	7½%	7½%
34. Bhagalpur.	7½%	
35. Colgong.	6½%	
36. Purnea.	7½%	
37. Kishanganj.	6½%	10%
38. Katihar.	7½%	10%
39. Forbesganj (on Government and public buildings only).	8½%	
40. Deoghar.	7%	8½%
41. Sehibang.	7½%	10%
42. Dumka.	7½%	7½%
43. Madhupur.	7%	9%
44. Hazaribagh.	7½%	8½%
45. Giridih.	7½%	7½%
46. Ranchi.	7½%	12½%
47. Lohardaga.	10%	
48. Doranda.	7½%	
49. Daltonganj.	10%	7½%
50. Purulia.	7½%	12½%
51. Chalda.	6½%	
52. Dhanbad.	7½%	
53. Chibassa.	7½%	7½%
54. Chakradharpur.	7¼%	12½%
55. Jugsalai.	7½%	

In addition the undermentioned municipalities levied a tax on the annual value of arable lands at rates shown below :—

1. Dinapur Nizamat	6¼%
5. Monghyr.	7½%

303. On the question whether there is scope for increase in the rates of taxation, the Secretary to the Government of Bihar states :—

> "The paying capacity of the people is necessarily a limiting factor. The power of fixing the percentage at which a tax or fee can be imposed subject to the maximum permissible under the Bihar and Orissa municipal Act in each case, vests in the municipal commissioners. Government see no reason to hold that the percentages fixed by municipal commissioners are, generally speaking, lower than they might be, or that tax rates in the province are much too low."

304. **Income.** The income from all the property taxes in the composite province of Bihar and Orissa in 1925-26 was Rs. 1,901,269 and it formed 76.5% of the total taxation income. The corresponding figures for the State of Bihar for 1946-47 are Rs. 3,750,461 and 83.9%. Though the percentage figures do not show much increase (being only 7.4) the actual income in 1946-47 when compared with the figures for the composite province for 1925-26 has nearly doubled.

305. **Exemptions.** Under section 83 of the Act, the tax on persons shall not be imposed on any person in respect of occupation of any public place of worship or of any public burial or burning ground nor in respect of the occupation of any building which is the property of Government or of local authority.

306 Under section 84 sub-sections (2) and (3) any holding which is used exclusively as a place of public worship or religious assemlage or as a dharamshala, or as a mortuary, or which is duly registered as a public burial or burning ground shall be exempt from the tax on holdings.

307. Under sub-section (3) ibid, the State Government may, on the recommendation of the Commissioners, exempt any holding or portion thereof which is used exclusively for any charitable purpose from the payment of the holding tax.

308. Under section 93 (*i*) the Commissioners may exempt any person from the tax on persons who may by them be deemed too poor to pay. Under section 93 (2) the State Government may, on the recommendation of the Commissioners, exempt any person in sole or joint occupation of a holding which is used exclusively for charitable purposes.

309. Under section 110, when the levy of a tax on any holding in the municipality would be productive of excessive hardship to the person liable to pay the same, the Commissioners may reduce the amount payable on account of such holding, or may remit the same. This is a provision peculiar to the Bihar and a few other Acts.

310. **Remissions.** Under section 111 (i) when any holding has been unoccupied and unproductive of rent for thirty or more consecutive days in any quarter the Commissioners shall remit or refund as the case may be, one-half of so much of the tax of that year as may be proportionate to the number of days the said holding has remained so unoccupied.

311. **Basis of assessment.** The basis of assessment is the annual value. Section 98 (i) of the Act states that the annual value of a holding shall be deemed to be the gross annual rental at which the holding may reasonably be expected to let. Suh-section (2) states that in the case of buildings which are not intended for letting or for the residence of the owner himself the annual value is deemed to be an amount which may be equal to but not exceeding 7½% of the actual cost of erection of the building in addition to a reasonable ground rent for the land comprised in the holding, provided that where the actual case so ascertained or estimated exceeds one lakh of rupees, the percentage on the annual value, so ascertained, in respect of so much of the cost as is in excess of one lakh of rupees

shall not exceed one-fourth of the percentage. This sub-section is similar to sub-section (2) of Section 128 of the Bengal Municipal Act 1932 both in respect of the quantum of the value and in respect of the provision for the concessional treatment to be accorded to properties the cost of which exceeds one lakh of rupees. Similar provisions for the ascertainment of annual value as a percentage of the capital value exist in Madras, Uttar Pradeh and Punjab Acts but only the quantum of the capital value to be taken into account is different namely 5 per cent. There is special treatment for properties the value of which exceeds one lakh of rupees anywhere, except in Bihar, Orissa and Bengal.

312. But there is one vital difference between the provision in the Bihar Municipal Act and the other Municipal Acts in this respect. Whereas in all other Municipal Acts the value of the property is taken as the estimated cost of construction of the building and value of land, *at the time of assessment*, the provision in Bihar is to the effect that the actual ascertained cost or the estimated actual cost of erection of the building plus a reasonable ground rent should be taken as the value of the holding. In view of the large rise in land values and building material in recent years, the annual value calculated on the basis provided in the Bihar Act would be very low when compared with the annual value of buildings calculated in the manner provided in the other Acts. There will be a perceptible increase in municipal income from this source if the provision of the Bihar Act were amended to bring it into line with the provisions of the other Acts. We would strongly commend this to the Government of Bihar.

313. The value of machinery and furniture is not taken into account for the determination of the annual value of a holding. We have commented on this in the general survey and have, therefore, no further comments to make here.

314. **Machinery of assessment.** The Bihar and Orissa Municipal Act does not make any reference to any Executive Officers or Secretaries. Whatever is required to be done by the Municipal Commissioners. Under section 37 of the Act, the Commissioners are competent to appoint such officers and servants as are deemed necessary, subject to any rules made by Government under the Act. The sanction of the State Government is necessary to the creation of any post with a salary exceeding Rs. 100 per mensem.

315. Under section 101 of the Act the Commissioners shall, after making such enquiries as may be necessary, determine the annual value of all holdings and enter such value in a valuation list. Section 107 empowers the Commissioners at any time to alter or amend the assessment list (a) by entering therein the name of any person or any property which ought to have been entered, or any property which has become liable to taxation after the publication of the assessment list (b) by substituting therein for the name of the owner or occupier of any building the name of any other person consequent on a change in ownership or occupancy (c) by enhancing the valuation of, or assessment on, any holding, which has been incorrectly valued or assessed by reason of fraud, misrepresentation or mistake; (d) by revaluing of re-assessing any holding the value of which has been increased by additions or alterations to buildings; (e) by reducing the valuation of any holding which has been wholly or partly demolished or destroyed (f) by revaluing and re-assessing any holding or class of holdings on the ground of general improvement in the locality where such holding or class of holdings are situated.

316. Under section 115 (1) the assessment list has to be published and under section 116 (1) any person who is dissatisfied with the amount assessed upon him or with the valuation or assessment of any holding may apply to the Commissioners to review the amount of assessment or valuation. Under section 117 (1) all applications against assessment under sections 89, 105, 107 and

113 are to be heard and determined by a committee consisting of two Commissioners and two tax-payers of the municipality, nominated or elected by the Commissioners in the prescribed manner and one Government servant not below the rank of a Deputy Magistrate, nominated by the District Magistrate. Under section 117 (2) applications against valuation or assessment presented under section 116 are to be heard and determined by a Committee consisting of not less than three Commissioners. Under sections 117 (3) the Committee constituted under sub-sections (1) and (2) of section 117 may pass any order they deem fit and under section 117 (4) the decisions of such Committees are final.

317. Under section 113 whenever it appears to the State Government the assessment made in any municipality or by an assessor appointed under section 37 is inequitible, the Government may require the Commissioners to revise and amend such assessment. If the Commissioners fail to comply with such order or in the opinion of Government, the revised and amended assessment is insufficient or inequitable, the Government may require the Commissioners to appoint an assessor of municipal taxes. In that order the Government shall fix the pay of the assessor etc. Under sub-section (4) of section 113 the assessment made by an assessor so appointed shall rescind and take the place of the assessment which was held to be insufficient or inequitable.

318. The same machinery as makes the original assessment is responsible for the periodical revision thereof. Under section 106 a new assessment list has to be prepared once in every five years.

319. **Appeals.** Once the assessment list is finalised after disposing of applications for review in the manner in the prescribed in section 117, no other appeal lies to any authority in respect of assessment or valuation.

ORISSA

320. As the State of Orissa was constituted from portions taken from the old composite province of Bihar and Orissa, the Madras Presidency and the Central Provinces and Berar, the levy of the property tax is regulated by the provisions of the Bihar and Orissa Municipal Act, 1922,* in the districts of Cuttack, Puri and Balasore, by the Madras District Municipalities Act, 1920† in the districts of Korapat and Ganiam and by the Sambalpur Local Self-Government Act in the district of Sambalpur. The provisions of these Acts have already been detailed in the portions of this chapter dealing with the States concerned; the Sambalpur Act is on the basis of the Central Provinces Municipalities Act, 1922 and will be dealt with under Madhya Pradesh. No generel house tax is levied in the Sambalpur Municipality, the main source of its income being octroi.

321. **Rate.** The rate at which the property tax is at present levied in the various municipalities in this State are given below :—

Cuttack	7½%	
Puri	7½%	
Balasore	10%	(calculated for holding and lighting).
Jajpur	10%	(only on public and Government buildings)
Kendrapara	10%	(—do—)
Berhampur	8%	
Parlakimedi	5%	

*Cuttack, Puri, Balasore, Jajpur, Kendrapara.
†Berhampur, Parlakimedi.

In Jaipur and Kendrapara the holding tax is not levied on private properties but only on Government and public buildings; instead a tax on persons is levied.

322. The income from all property tax in Orissa municipalities in the year 1940-41 was Rs. 394,903 and it formed 85 per cent. of the total income from rates and taxes. The corresponding figures for 1946-47 are Rs. 445,751 and 70 per cent. It will be observed that the figure for actual income for 1946-47 has shown an appreciable increase over that for 1940-41, while the percentage figure records a fall. This is due to the increase of income from other taxes in the meanwhile.

323. **Machinery of assessment.** The Government of Orissa have made the following remarks on this subject (in their memorandum to us):—

> "The assessment of all taxes, particularly property taxes, should be done by an independent agency. Under the Municipal Acts in force in this province, Provincial Government have power to appoint assessors to undertake periodical revision of assessment. In municipalities in the ex-Madras area there is provision for appointment of a Government Officer as the Commissioner of a Municipality. A similar provision is being adopted in the unified municipal Bill which is under consideration of Government. The assessment of taxes will be conducted by the Executive Officers of the Municipalities who will receive a short course of training in a recognished institute, in accordance with a proposed scheme of training under contemplation by Government."

MADHYA PRADESH

324. The property tax is levied by municipalities in this State under clause (a) of sub-section (1) of section 66 of the Central Provinces Municipal Act, 1922. It is not a compulsory tax. The tax is levied on the owners of buildings or lands situate within a municipality with reference to the gross annual letting value of the buildings or lands. The tax is not levied by all municipal committees, notable among the municipalities which do not levy this tax is Jubbalpur which has not been raised to the status of a Corporation. Of the 37 municipalities that have sent in replies to the Committee's questionnaire the tax is levied by the undermentioned 14 municipalities at the rates shown against each :—

Burhanpur	6¼%
Gondia	9-3/8%
Khandwa	...
Akot	6¼%
Arvi	6¼%
Digras	7½%
Betul	7%
Hinghanghat	6¼%
Khangaon	6¼%
Akola	9%
Basim	...
Manendragarh	3%
Durg	...
Nagpur	6¼% (subject to a maximum of Rs. 240)

325. The tax is not levied by the majority of municipalities. Out of 107 municipalities only 49 levy a house tax. Even where it is levied the rate does not exceed 10% in any single instance. The tax was levied by only two municipalties out of 51 in the Central Provinces and 24 out of 31 in Berar in the year 1943-44. The corresponding figures for 1939-40 are 3 in Central Provinces and 25 for Berar. It will be seen, therefore, that as in U.P. and Punjab property tax is not one of the chief sources of income in this State.

326. **Income** The total income from all property taxes of municipalities in this State in 1925-26 was Rs. 142,113 and it formed 29.2% of the total taxation income. The corresponding figures for 1946-47 are Rs. 478,04,439 and 36.30%. There is an appreciable growth both in the size of the income from property taxes as well as in their importance.

327. **Exemptions.** Under section 69 a municipality by resolution passed at a special meeting, may exempt in whole or part from the payment of any tax any person or class of persons or any property or description of property. Only in the case of municipalities which are indebted to Government are such resolutions regarding exemptions subject to the approval of Government. No details of the properties exempted from the property tax are given in the Act.

328. **Remissions.** The Act does not contain any provision for vacancy remissions.

329. **Basis of assessment.** The basis assesment of the property tax is the "annual letting value". No definition of this term so far as buildings which are generally let is given in the Act. Only in the case of lands, the annual letting value is deemed to be the gross annual rental at which the lands may reasonably be expected to let. The Act deos not, therefore, make it clear whether the annual letting value of rented buildings is the "actual rent" or a reasonable rent, which is a hypothetical tenant would, other things being equal, be expected to pay. But it is observed from the rules sanctioned by Government for the Nagpur Municipality in Notification No. 9431-5256-M-XIII dated the 8th December, 1941 (which are indentical with those sanctioned for other municipalities) that tho annual value is deemed to be gross annual rental at which the building or land may, reasonably be expected to let.

330. In the case of buildings not erected for letting purposes and not ordinarily let the annual letting value is deemed to be [under section 73 of the Act] five per cent. of the aggregate sum obtained by adding (i) the estimated *present* cost of erecting tho building after deducting a reasonable amount of account of depreciation to (ii) the estimated present value of the land valued as an occupied site. Machinery is excluded in the determination of the annual value. There is also a proviso to this section to the effect that if any building is occupied in such circumstances as to render a valuation of five per cent. unreasonable, the municipal committee may, at its discretion, reduce the percentage accordingly.

331. There have been complaints in some places that the Rent Control Acts, by stabilising house rents at a level existing in a particular year have a deleterious effect on municipal income from property taxes. Though the actual rent has under the law nothing to do with 'reasonable' rent, which is the basis of assesment to municipal property tax and which is not within the mischief of the Rent Control Acts, yet, owing to the inability of landlords to pass on any increases in property taxes to their tenants in the shape of increased rents, municipalities in other States have not found it possible to raise their rates of property taxes to a satisfactory figure. However in this State section 11 of the C.P. and Berar Regulation of Letting of Accommodation Act, 1946 permits increases in rent consequent on increases in municipal taxation.

332. **Machinery for assessment.** The Municipal Act itself does not contain any specific mention of a Secretary or Chief Executive Officer, but the bye-laws under the Act provide that the Secretary is the Chief Executive Officer. The executive and administrative power is vested in the President; the Executive officer or Secretary, wherever such exist being only subordinate appointed by the municipal committee under section 25. The Act does not contain any provisions for the machinery of assessment. This has been left to be ragulated by rules to be made by the Government under section 71. We think that the Municipal Act in this State should, in this respect, be brought into line with the Municipal Acts in other States and the power to make provision for them by rules framed by the Executive Government withdrawan.

333. Valuation and assessment are the responsibilities of the Committee (vide rules for House Tax in respect of the Nagpur Municipality sanctioned in Government Notification No. 9431-5256-M-XIII dated the 8th December 1941). Under rule 5, the valuation has to be made by an officer specially appointed for the purpose by the Committee. Under rule 6, the Committee shall cause to be prepared on the 31st January of every third year an assessment register. Under is rule 9 objections against the valuation or assessment contained in the register have to be made within one month of the publication thereof. Under Rule 11 the Committee may delegate the power to hear and dispose of finally all such objections either to sub-committee or to one of its officers.

334. A valuation once made remains in force for three years. Re-valuation is to be made in all the wards of the municipality simultaneously. At any time during the currency of a valuation the committee has got the power after giving due notice to the party affected to revise the valuation of any property for material altorations in the circumstances on which the valuation of any property was at the time of the general valuation based.

335. **Appeals.** Under section 83 appeals against any assessment or valuation for any tax lio to the Deputy Commissioner of the district or such other officer as is empowered by Government in this behalf. If, however, the Deputy Commissioner or the other authorised officer is or was when the tax was assessed a member of the Committee, the appeal shall lie to the Commissioner. If during the hearing of the appeal, any question as to the liability to or the principle of assessment of a tax arises, on which the officer hearing the appeal entertains reasonable doubt, he may, either of his own motion or on the application of a person interested, make a reference to the High Court for final decision. Under sub-section (3) of section 83 the jurisdiction of Civil Courts in matters of taxation is barred.

ASSAM

336. The general property tax called a 'tax on holdings' is levied by municipalities in Assam under clause (a) of sub-section (1) of section 59 of the Assam Municipal Act, 1923. The tax is payable by owners on the annual value of their holdings situated within the municipality. As in other States, the tax is levied on both buildiugs and lands in accordance with the definition of 'holding' given in sub-section (10) of section 3, as below :—

> "Holding means land held under one title or agreement and surrounded by one set of boundries, provided that where two or more adjoining holdings form part and parcel of the site or premises of a dwelling house, manufactory, warehouse, or place of trade or bussiness, such holdings shall be deemed to be one holding for the purpose of this Act."

337. No maximum or minimum rates have been prescribed in the Act.

338. The tax was levied by all municipalities and town committees in the year 1945-46 at the rates noted against each :—

1.	Silchar	8%
2.	Karimganj	7%
3.	Dhubri	3%
4.	Shillong	7½%
5.	Goalpara	6¼%
6.	Gauhati	7½%
7.	Barpeta	7½%
8.	Tezpur	7%
9.	Nowgong	7½%
10.	Sibsager	6%
11.	Jorhat	6%
12.	Golaghat	7%
13.	Dibrugarh	6%
14.	Tinsukhia	5½%
15.	Hailakandi	7%
16.	Haflong	7½%
17.	Gauripur	6%
18.	Palasbari	5%
19.	Nalbari	6%
20.	Mangaldai	6%
21.	Nazira	7½%
22.	North Lakhimpur	4%
23.	Doom Dooma	6%

It will be observed that the rates are low. Perhaps this is due to the general backwardness and poverty of the people in the State and is not due to luck of civic consciousness. It is creditable that the tax is levied by all municipal bodies which is not the case in some other States.

339. **Income.** The income from all property taxes amounted to Rs. 4,18,486 in 1925-26 and it formed 74.9% of the total taxation income, the corresponding figures for 1946-47 and Rs. 9,84,588 and 95.1%. It will thus be seen that there has been a substantial increase in the income from this source in the course of twenty years *pari passu* with the growth of its importance in the field of local taxation. Further, real estate taxes account for almost the entire taxation income of municipal bodies in this State at present. There is no octroi in Assam.

340. **Exemptions.** Under section 60, holdings, the annual value of which is less than six rupees are exempt from the tax on holdings. Under sub-section (1) of section 83, the holding tax is not leviable on any holding which is used exclusively as a place of public worship or on any holding which is registered as a public burial or burning ground. Under sub-section (2) of section 83, a municipality may exempt from assesment to the holding tax any holding which is used for purposes of public charity.

341. **Remissions.** Under sub-section (3) of section 83, a municipal board may reduce or remit entirely the amount payable in respect of the holding tax if from the circumstances of the case the levy of the tax would be productive of ex-

cessive hardship to the person liable to pay the same. This is evidently on the analogy of the powers of municipalities to reduce the quantum of the capital cost to be taken for the purpose of determining the annual value is Uttar Pradesh and Punjab. We are not in favour of such discretionary power in individual cases. It would be better to prescribe a progressive scale of taxation instead.

Under section 92, when any holding has been vacant for sixty or more consecutive days in any year, the municipality has to remit or refund, as the case may be, one-half of so much of the tax of that year as may be proportionate to the number of days, the holding was unoccupied.

342. **Basis of assessment.** The basis of assessment to the general tax on holdings is the 'annual value'. In the case of holdings which are generally let, the annual value is taken under section 71 as the gross annual rent at which the holding may reasonably be expected to let. The annual value of any building vesting in Government and of any other holding, the gross annual rent at which it may reasonably be expected to let cannot, in the opinion of the Board, be satisfactorily ascertained, is assumed to be such percentage of the cost of erection of the building or buildings on the holding as may be determined by the Board, with the approval of the State Government, in addition to a reasonable ground rent for the land comprised in the holding. The percentage may be fixed at different rates for different types of buildings and for different localities. In calculating the annual value of any holding, any machinery and its foundation contained in the holding is not to be taken into account. The amount of municipal taxes paid by a tenant shall be excluded in calculating the gross annual rent. There is a provision in the Act to the effect that where the annual value of a holding exceeds Rs. 7,500, the tax on the excess over Rs. 7,500 shall be leviable at one-fourth of the rate. We see no justification for this concession and suggest that it may be withdrawn.

343. **Machinery of assessment and revision.** Under section 73 of the Act, the duty of preparing the assessment list is cast on the Board. Both the valuation list prepared under section 66 and the assessment list prepared under section 73 have to be published for objections. Every application for a review of the assessment or valuation is to be heard and determined by a committee consisting of not more than five members or by a Government servant deputed by Government to whom the powers of the Board under section 89 are delegated. The Chairman and Vice-Chairman of the Board are ex-officio members of the Committee. The decision of this Committee or the officer empowered to hear such objections is final. Under section 91 the jurisdiction of civil courts in the matter of taxation is barred.

344. Under section 77 (B), whenever it appears to the State Government that the valuation in a municipality is insufficient and excessive, the Government may require the Board to revise such valuation. If the Board fails to comply with such a direction and the cause shown is inadequate or the revised valuation also is insufficient, excessive or inequitable, the Government may require the Board to appoint an assessor. The appointment and conditions of service, salary, etc. of such assessor are fixed by the Government. Applications for the review of assessment under section 88 are heard and determined by the review committee of the municipality or an officer appointed by the Government under section 89 (1). The decision of the review committee or the reviewing officer is final.

345. A valuation once made cannot be revised within five years; nor left unrevised beyond five years without the sanction of the Government. At any time during the currency of a valuation, the Board may value and assess any holding which was unauthorisedly omitted from the valuation list or which has become liable to valuation and assessment, subsequent to the publication of a valuation list. The Board may also enhance the valuation and assessment of any

338. The tax was levied by all municipalities and town committees in the year 1945-46 at the rates noted against each :—

1.	Silchar	8%
2.	Karimganj	7%
3.	Dhubri	3%
4.	Shillong	7½%
5.	Goalpara	6½%
6.	Gauhati	7½%
7.	Barpeta	7½%
8.	Tezpur	7%
9.	Nowgong	7½%
10.	Sibsager	6%
11.	Jorhat	6%
12.	Golaghat	7%
13.	Dibrugarh	6%
14.	Tinsukhia	5½%
15.	Hailakandi	7%
16.	Haflong	7½%
17.	Gauripur	6%
18.	Palasbari	5%
19.	Nalbari	6%
20.	Mangaldai	6%
21.	Nazira	7½%
22.	North Lakhimpur	4%
23.	Doom Dooma	6%

It will be observed that the rates are low. Perhaps this is due to the general backwardness and poverty of the people in the State and is not due to luck of civic consciousness. It is creditable that the tax is levied by all municipal bodies which is not the case in some other States.

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341. **Remissions.** Under sub-section (3) of section 83, a municipal board may reduce or remit entirely the amount payable in respect of the holding tax if from the circumstances of the case the levy of the tax would be productive of ex-

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342. **Basis of assessment.** The basis of assessment to the general tax on holdings is the 'annual value'. In the case of holdings which are generally let, the annual value is taken under section 71 as the gross annual rent at which the holding may reasonably be expected to let. The annual value of any building vesting in Government and of any other holding, the gross annual rent at which it may reasonably be expected to let cannot, in the opinion of the Board, be satisfactorily ascertained, is assumed to be such percentage of the cost of erection of the building or buildings on the holding as may be determined by the Board, with the approval of the State Government, in addition to a reasonable ground rent for the land comprised in the holding. The percentage may be fixed at different rates for different types of buildings and for different localities. In calculating the annual value of any holding, any machinery and its foundation contained in the holding is not to be taken into account. The amount of municipal taxes paid by a tenant shall be excluded in calculating the gross annual rent. There is a provision in the Act to the effect that where the annual value of a holding exceeds Rs. 7,500, the tax on the excess over Rs. 7,500 shall be leviable at one-fourth of the rate. We see no justification for this concession and suggest that it may be withdrawn.

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344. Under section 77 (B), whenever it appears to the State Government that the valuation in a municipality is insufficient and excessive, the Government may require the Board to revise such valuation. If the Board fails to comply with such a direction and the cause shown is inadequate or the revised valuation also is insufficient, excessive or inequitable, the Government may require the Board to appoint an assessor. The appointment and conditions of service, salary, etc. of such assessor are fixed by the Government. Applications for the review of assessment under section 88 are heard and determined by the review committee of the municipality or an officer appointed by the Government under section 89 (1). The decision of the review committee or the reviewing officer is final.

345. A valuation once made cannot be revised within five years ; nor left unrevised beyond five years without the sanction of the Government. At any time during the currency of a valuation, the Board may value and assess an holding which was unauthorisedly omitted from the valuation list or which become liable to valuation and assessment, subsequent to the publication valuation list. The Board may also enhance the valuation and assessment of

holding which may appear to have been insufficiently valued or assessed through mistake, inadvertance or fraud; and may revalue and reassess any holding, the value of which has been increased by additions or alterations. The Government of Assam made the following observations on this subject in their memorandum to the Indian Statutory Commission :—

"Re-assessments from between 1920-21 and 1926-27 which were reported to have produced an increase of more than Rs. 1,000 were :—

	Increase. Rs.	
Shillong	14,922	
Ditto	26,772	
Tezpur	2,085	
Ditto	1,695	
Barpeta	1,270	
Silchar	5,205	
Dhubri	1,756	(including new water tax)
Nowgong	1,060	
Dibrugarh	9,612	
Karimganj	1,640	
Goalpara	1,107	
Gauhati	5,709	
Jarhat	1,537	
Ditto	3,265	
Sylhet	5,201	
Habiganj	2,164	
Maulvi Bazar	3,604	

There were 22 revisions of assessment altogether. Nearly half the value of re-assessment occurred therefore in Shillong, where it was made by Government officers.

Any rate-payer can apply to the board for a review of his assessment. All such appeals are heard by a committee consisting of not more than five members of the board, the Chairman and the Vice-Chairman being ex-officio members. Experience has shown that at present in Assam there is general reluctance on the part of municipal boards to insist on a proper valuation and a full assessment. In Sylhet, for example, an assessor was appointed whose valuation would have produced an increase in the rates of Rs. 22,154. After review by the Committee the increase of the assessment was reduced to Rs. 4,597. No advantage has been taken of the procedure offered by section 89 of the Act under which on the request of the board an officer of Government can be appointed to deal with appeals against taxation. The result of this is that the municipal income, which under ordinary circumstances would be insufficient to meet modern requirements, is in the case of most boards totally inadequate and requests for Government assistance are frequent."

The position has not improved much since then as will be obvious from the following extracts from the memorandum of the Government of Assam to this Committee :—

"It is no use talking of improving the finances of Local Bodies unless the position about assessment and collection of taxes is also considered. The present method of assessment is not satisfactory. The assessor should invariably be appointed by Government. He should be an officer of considerable experience, independent in judgement and free from influence or bias."

CHAPTER VI

PROPERTY TAXES—SERVICE TAXES

346. In addition to the general property tax on immoveable property assessed on the annual value, there are a few taxes levied by municipalities and assessed, like general property tax, on the annual value of immoveable property within municipal limits, which can, for facility of reference, be called by the generic term "service taxes" because they are levied by municipalities as charged for specific services rendered to the inhabitants. These service taxes fall under the following heads :—

(1) Water rate levied for the provision of water supply to the inhabitants of a town.

(2) Lighting rate levied to meet the cost of lighting the public streets and highways in a town. This is a tax for a service rendered collectively to the citizens *qua* citizens and not as individuals for the provision of domestic lighting. Wherever the municipalities supply electric energy for domestic lighting, the charges are recovered on a commercial basis in the the shape of so many annas per unit of elertric energy consumed. This has to be distinguished from the water rate in that the latter can be levied both in the form of a general water rate irrespective of the fact whether a particular holding is connected specially for supply of water or not and in the form of a charge based on the size of the ferrule or on the quantity of water consumed.

(3) Drainage rate, also called general sanitary cess in Bombay or conservancy rate in Madras, levied for the purpose of providing public drains and sewers and their regular cleansing and maintenance. This is similar to the lighting rate in that it is a charge collectively on all owners of immoveable property and not on particular individual making use of the service in question.

(4) Latrine rate, also designated "special sanitary cess" in Bombay and "scavenging tax" in Madras, levied on all holdings, which have latrines or cess for the cleansing of which the municipality makes arrangement.

This has to be distinguished from the lighting and drainage rate in that it is a charge for specific services rendered thereto

347. In addition to the four taxes mentioned above, there is another tax, called a Fire tax, levied at a percentage of the rateable value of properties in the city of Bombay. The tax is levied at $\frac{3}{4}$% but occupies an insignificant place in the category of municipal taxes.

348. The law and practice relating to the levy of the service taxes in each State is given below.

I—Water Rate

349. **Madras.** The water and drainage tax is a composite tax that is permitted to be levied in the City of Madras by the Madras City Municipal Act, 1919 under section 98 (4) read with section 99 (1) " for the purpose of defraying the expenses connected with the water and drainage systems of the City". The Council has to declare what proportion of tax is relateable to the provision of water and the remainder is assumed to be in respect of drainage.

The water tax is at present levied in Madras City at 1½% of the annual value of houses. In addition there is provision in the Act for levying a special charge, when water is consumed in excess of a specified quantity. Water supplied for non-domestic consumption can be charged at such rates as the Standing Committee may fix.

350. The Madras Corporation has to maintain under the statutory rules separate accounts for receipts and charges in connection with water supply. Below is an extract from the Administration Report of the Madras Corporation for 1947-48.

	RECEIPTS		EXPENDITURE			
	1947-48	1946-47	1945-46	1947-48	1946-47	1945-46
Normal Capital	1,777,363	1,868,974	2,065,286	1,583,424	1,388,794	1,276,776
(1) Grants from Govts.	595,138	358,453	20,127	—	—	—
(2) Loans from Govt.	1,250,000	1,013,700	77,400	—	—	—
Total Capital	1,845,138	1,372,153	97,527	1,904,899	1,223,839	571,366
Grand Total	3,622,501	3,242,127	2,162,803	3,488,323	2,613,633	1,848,142

It will be observed from the above figures that the receipts have always exceeded the expenditure in the aggregate.

351. In Madras District Municipalities the provisions of the Act are similar to those of the Madras City Municipal Act. The water tax is also levied on non-agricultural as well as agricultural lands which derive benefit from the Municipal water supply in the city and in the mofussil. The rate have already been indicated in the chapter on property tax (general).

352. Unlike the City Municipal Act then is no provision in the Madras District Municipalities Act for the maintenance of separate accounts for water supply, but the maintenance of such accounts is enforced by executive orders. The Government of Madras have issued orders to the effect that "no Municipal Council which levies a water and drainage tax or lighting tax, shall, without the previous sanction of the Government, spend annually more than Rs.2,000 out of its general revenues towards the expenditure debitable to the water and drainage account or the lighting account." When applications for sanction for transfer of amounts in excess of Rs. 2,000 from the general revenues to the special accounts are received or when budgets of municipal councils are reviewed by Government, the need for making the special service self-supporting is pointed out to the municipalities concerned and they are advised to raise the rates of special taxes or re-adjust the several components of the property tax to make the special accounts self-supporting.

352. Out of the 91 municipalities in Madras, the water tax is levied in 75 at present. An extract from the subsidiary accounts relating to water supply is given below for 1948-49.

D. Water supply and Drainage account.

1. Water supply

Receipts ordinary		
(i) Water tax		Rs. 2,715,085
(ii) Other		958,914
	Total Receipts ordinary	Rs. 3,773,999
Receipts Capital		
(i) Grants from Govt.		Rs. 1,365,637
(ii) Loans		914,500
(iii) Others		224,476
Total Receipts Capital		Rs. 2,494,613
	Total Receipts	Rs. 6,268,612
Expenditure	Ordinary	Rs. 2,703,895
	Capital	Rs. 2,359,371
	Total Expenditure	Rs. 5,063,266

The figures given above show an appreciable excess of receipts over expenditure. It will further be seen that generous grants-in-aid and loans are given by the Government of Madras for capital expenditure in connection with water supply to the Madras City Corporation as well as to mufussil municipalities.

353. **Bombay.** Unlike the provision in the Madras City Municipal Act, the City of Bombay Municipal Act lays down that a water tax shall be levied by the Corporation. The Act does not lay down any maximum or minimum rate. It states merely that "a water tax of so many per cent. of their rateable values as the Corporation shall deem reasonable for providing a water supply for the city" shall be levied (section 140). Before 1947, the provision in the section was "with reference to the expenses of" instead of "for". The genesis of this amendment is given in the following extract from the Report of the Bombay Municipal Finance Committee 1948 :—

> "17. The Mills which were charged at the rate of Rs. 1-8-0 per thousand gallons in 1946-47 filed a suit against the Corporation contending that the charges levied should have some relation to the cost of providing the water. As the Corporation was legally advised that this contention of the Mills had some substance a compromise was arrived at by which the old rate of Rs. 1-1-0 was restored, the reduced rate remain in force till the end of 1949-50. This has resulted in a fall of about Rs. 13 lakhs in the revenue from this source. The Municipal Act has now been amended so that with effect from the year 1950-51 the municipality will be able to charge at higher rates again."

Under Section 169 the Corporation may, instead of levying the water tax, charge in respect of any premises for the water supplied to such premises by measurement at such rate as may be fixed by the Standing Committee.

354. It is observed from the Municipal Chief Auditor's report as well as the Administration Report of the Corporation that separate accounts are maintained in respect of each of the services. The Administration Report gives both

receipts and charges account as well as a commercial assets and liabilities account in respect of the services. An extract from the accounts relating to water supply is given below :—

	1948-49	1947-48
INCOME	13,436,995	13,665,062
EXPENDITURE	10,095,001	8, 539,873

The Corporation has incurred up to the 31st March, 1949 an aggregate capital expenditure of Rs. 109,048,079 of which a sum of Rs. 4,031,394 relates to the expenditure during 1948-49. Of the figures of income shown, 91% represent the income from water-tax and rents from meters. The figures of income and expenditure show an excess of receipts over expenditure.

The provisions relating to the levy of the water-tax in the Bombay Provincial Municipal Corporation Act, 1950 [under which the Municipal Boroughs of Poona and Ahmedabad have been constituted into city Corporations] are identical with those of the City of Bombay Municipal Act, 1888.

365. In Bombay Municipal Boroughs Act the provision regarding the levy of the water rate runs as follows :—

> "73 x x x x
>
> a municipality may impose x x x
>
> (x) a general water rate or a special water-rate or both for water supplied by the Municipaity, which may be imposed in the form of a rate assessed on buildings and lands or in any other form, including that of charges for water-supply, fixed in such mode or modes as shall be best adapted to the varying circumstances of any class of cases or of any individual case."

While in Municipal Boroughs, both a general water rate and a special water rate can be imposed at the same time in district municipalities this is not the case. The provision in the District Municipal Act is that either a general water rate *or* a special rate (but not both) can be imposed.

356. The Government of Bombay have made the following remarks on the levy of service taxes by Municipalities in Bombay :—

> "The levy of these depend on the particular services provided by the municipalities and the incidence is bound to vary in accordance with variations in the standards observed by different municipalities. The Kale Committee has not made any specific recommendation in regard to these taxes. Several municipalities are reluctant to levy these taxes at adequate rates so as to provide the requisite income to cover the full cost of the service rendered. Government insists on adequate rates being imposed for the purpose when assistance or sanction is sought to water supply and drainage schemes of local bodies."

The departmental committee presided over by Mr. D. R. Pradhan, I.C.S., has made the following observations in this respect :—

> "We recommend that Government should insist that special services like special conservancy and special arrangements for supply of water in buildings should be made self-supporting and that the rates of the special water rate and the special sanita
> so fixed as to cover the full cost of these services
> this opportunity to suggest that the Bombay Di
> 1901 should be amended so that it may be

the Bombay Municipal Boroughs Act, 1925, in regard to the levy of both general water rate and special water rate. There should be no exemption from the general water rate when a special water rate is levied.

As recommended by this Committee the municipalities in this State have been advised to make the special sanitary service and special arrangement for supply of water self-supporting."

357. An extract from the Statistical Appendix to the review on the administration of Municipalities in Bombay by Government for the year 1944-45, relating to receipts and charges under the head 'water supply' is given below:—

Income	Rs.	4,938,851
Expenditure		
Capital	Rs.	502,009
Current	Rs.	2,258,638
Total expenditure	Rs.	2,760,647
Balance :	Rs.	2,178,204

The figures show an excess of income over expenditure.

358. In reply to a specific query on the point whether there is generally such an excess of income over expenditure in each municipality, the Examiner of Local Fund Accounts states as follows :—

"Regarding water cess, a statement of proforma account showing the self-sufficiency or otherwise of the cess is appended to the Audit Notes of local bodies concerned and the advisability of increasing the rates, wherever necessary, to make the service self-supporting is impressed on the local bodies concerned. A statement of municipalities where this service was not self-supporting is also enclosed.

Name of Municipality	1945—46		1946—47		1947—48	
	Income	Expenditure	Income	Expenditure	Income	Expenditure
Jejuri	267	1,388	...	634	22	601
Poona	2,80,768	2,97,078	2,87,11	356,001	...	...
Thana	49,967	81,336	...	...	...	...
Kapadwanj	...	...	44,416	79,819	...	...
Sirur	...	...	2,823	5,878	4,280	5,772
Ahmednagar	...	...	...	...	78,000	107,500
Borsad	...	...	...	...	22,027	22,908"

359. West Bengal. Water rate is levied by municipalities in West Bengal under clause (a) of sub-section (1) of Section 123 of the Bengal Municipal Act, 1932. Under section 125 the levy of the rate is subject to the undermentioned restrictions :—

(1) It should be imposed only on holdings within an area for the supply of water to which scheme involving the laying of pipes etc.

has been sanctioned by Governments. It can be imposed even if other arrangements for supplying water are made.

(2) It should not be imposed on lands used exclusively for the purpose of agriculture or on any holding no part of which is within a specified radius from the nearest standpipe or other source of supply of water.

(3) It should not be levied until a supply of water has actually been provided in the area to be supplied.

A maximum rate 7½% is laid down for the water rate. The Act also provides for the fixation of different rates in respect of holdings to which communication pipes are attached (in which case the rates may be higher) and in respect of premises not having such facilities.

360. Under section 111 all monies received or recovered whether as taxes or for the execution of works or in any respect relating to the water-supply system shall, after deduction of the proportionate share of the cost of collection, supervision, etc. be spent on providing, extending or maintaining the water-supply. The Government of West Bengal have stated that while they have not issued any directions to local bodies to the effect that the services should be self-supporting the intention of section 111 seems to be so. The Government have, however, stated that, in actual practice, it has not been possible to make these services self-supporting.

361. The water rate is at present levied by 28 out of the 75 municipalities in the State. An extract from the accounts showing the income and expenditure in this account is shown below :—

Income from water rate			percentage of Col. 3 to total average income.
1946-47	1947-48	Average	
895,868	1,057,003	976,435	7.4

	1946-47	1947,48	Average	Percentage of Col. 4 to total average expenditure.
(1) Capital outlay	46,339	46,252	49,295	
(2) Establishment etc.	586,692	724,301	655,496	
Total expenditure	633,031	770,553	701,791	8.7

362. In the city of Calcutta and in the municipality of Howrah, a consolidated rate is levied in lieu of separate service rates for water, drainage, lighting and conservancy.

363. **Uttar Pradesh.** The water rate is levied by municipalities in Uttar Pradesh under clause (x) of sub-section (1) of section 128 of the U. P. Municipalities Act, 1916. Under section 129, the water tax is not leviable on land used exclusively for purposes of agriculture or in certain radius of the nearest standpipe. Further, the tax can be imposed solely with the object of defraying the

expenses connected with the construction, maintentance extension of improvement of municipal water-works. All monies received in respect of water-supply have to be spent thereon. The Government have not issued any directions to the municipalities to make this service self-supporting. No statutory maximum rates have been fixed. The water rate is at present levied only by 21 out of 88 municipalities in the State. The rates vary from 2½% in Hathras to 12½% in Ghazipur, of the annual rental value. The water tax can be levied both in the form of a percentage on the rateable value of holidings and in the form of a specified charge according to the quantity of water supplied. It is actually levied in both forms in several places.

364. The Government of Uttar Pradesh have made the following observations regarding water tax in their memorandum to the Committee :—

> "**Water Tax** : Water tax being of the nature of a service tax is only to be levied by municipal boards having water-works and its proceeds have to be co-related with, and earmarked for, the expenditure on the water-supply arrangements alone, under section 130 of the Municipalities Act. Thus, water tax cannot be resorted to as a general source of income nor can be imposed by any board having no water-supply. The rates of tax in various municipalities range between 3¾% and 11¼% on the annual rental value of buildings or lands taxes. and the exemption limit ranges from Rs. 15 per annum to Rs. 96 per annum. The tax is levied in 21 municipalities, and its total yield for the years 1945-46 and 1946-47 was Rs. 37 lakhs and 29 lakhs respectively which means an average of about 7% of the total annual income of all municipalities."

365. **Punjab.** Water tax is not specifically mentioned in the Punjab Municipal Act, 1911, as one of the taxes that may be levied. It is evidently being levied under the general power conferred on municipalities under sub-section (2) of section 61 to levy any tax, which the State Legislature has power to levy. Under section 96 a municipal committee may, and when so directed by the State Government shall, provide the local area with a supply of wrter. No statistics are available regarding the number of municipalities which levy this tax in this State. The Examiner, Local Fund Accountants, Punjab, has stated :

> "The water works and Water Tax Departments are generally self-supporting in all municipal committees because the water rate recovered by them usually covers the cost of these departments".

Water tax in 1947-48 amounted to Rs. 4,18,191. The total expenditure on water supply was Rs. 6,03,774.

366. **Bihar.** Water tax is levied by municipalities in Bihar under clause (c) of sub-section (1) of section 82 of the Bihar and Orissa Municipal Act, 1922. The levy of water tax is subject to the same restrictions as in Bengal. It is laid down in section 85 (1) (d) that, in fixing the rate at which the tax is to be imposed, regard should be had to the principle that the total net proceeds of the tax, together with the estimated income from payments for water supplied under special contract, shall not exceed the amount required for making, extending, or maintaining the water-supply system together with an amount sufficient to meet the proportionate cost of collection and supervision and the repayment of, and payment of interest on, any loan incurred in connection with any such supply. A maximum of 7½% of the annual value is prescribed for the water tax. A provision similar to that in section 69 of the Bengal Act, namely, that receipts

under the head "Water supply" are to be spent entirely on the water supply system and no portion thereof should be diverted to other objects. The Government have not issued any specific direction to local bodies to make these services self-supporting. They have, however, stated that the intention of the statutory restriction detailed above is such.

367. An extract from the annual statement on the working of municipalities in Bihar for 1943-44 issued by the State Government relating to water supply is given below :—

Income	Rs. 4,26,047
Expenditure	Rs. 5,27,904

It will be observed that there is actually deficit in the water supply accomnt.

368. **Orissa.** As has been stated elsewhere, North Orissa is governed by the Bihar and Orissa Municipalities Act, 1922 and South Orissa by the Madras District Municipalities Act, 1920. The provisions in these Acts relating to the water rate have already been dealt with in the respective State sections. In the new unified Orissa Municipal Bill 1950, which is now on the legislative anvil, the provisions of the Bihar Act have been adopted. The Government of Orissa have stated that they have not given any specific direction to local bodies to make these services self-supporting. However, it is observed from a note of the Examiner of Local Fund Accounts, Orissa that a water tax is at present levied only by the Berhampur Municipality and there the service is self-supporting.

369. **Madhya Pradesh.** Water tax levied by Municipalities in Madhya Pradesh under clause (k) of sub-section (1) of Section 66 of the Central Provinces and Berar Municipalities Act, 1922. No statutory maximum rate is laid down. There are no statutory restrictions on the levy of the water tax similar to those contained in the Bengal and Bihar Acts. The State Government have stated that instructions have in the past been issued impressing on local bodies the desirabitity of making their services self-supporting, if necessary by resorting to direct taxation. The results achieved have not been spectacular, though the majority of municipal committees have kept their water supply expediture within their income from the tax. The Government add :

> "The Committees are taking action to enhance the rates of taxes including water rate and conservancy tax. The Provincial Government, therefore, feel that their result will be reflected in additional income in the immediate future and it is likely that the services will be self-supporting".

370. The Examiner of Local Fund Accounts, Madhya Pradesh has stated that in 1947-48 the water supply account was not self-supporting in one municipality. He has added that the services which are not self-supporting are invariably commented upon in the Audit Reports issued to local bodies with a view to enable them to take expeditious action to make them self-supporting.

371. The income and expenditure under this head for 1943-44 are given below :—

Income	Water tax	Rs. 12,55,671
Expenditure	Capital	Rs. 2,74,890
	Recurring	Rs. 8,64,031
		Rs. 11,38,921

372. **Assam.** Water tax is levied by municipalities in Assam under clause (1) of sub-section (1) of section 59 of the Assam Municipal Act, 1923. The levy of the tax is subject to the same statutory restrictions as are contained in the Bihar Act with the exception that no strtutory maximum rate has been prescribed. The Government of Assam have not issued any special instructions to municipalities that these services should be self-supporting. The Examiner of Local Fund Accounts has stated that where these services are not self-supporting the fact is brought to the notice of the local bodies concerned as well as Government.

373. The figures of income and expenditure of municipalities in Assam under this head for 1945-46 are given below :—

Income	Rs. 209,303
Expenditure :—	
Capital	Rs. 10,499
Recurring	" 250,463
	Rs.260,962

There is a deficit of Rs. 50,000 in the water supply account.

II—Lighting-rate

374. **Madras.** A lighting tax is levied by the the Madras Corporation under section 98 (a) read with section 99 (1) (i) of the Madras City Municipal Act, 1919. Though no statutory maximum rate is prescribed for this tax, under section 98 the rates of all the taxes on property together cannot exceed 20% of the annual value. The lighting tax is at present levied in Madras City at 1½%. Under statutory rules the Commissioner is required to maintain a separate account for lighting.

375. An extract from the lighting account of the Corporation for 1947-48 is given below :—

Receipts—normal	
(1) Lighting tax	Rs. 633,104
(2) Other receipts	Rs. 14,819
	Rs. 647,923
Capital loans	Rs. 100,000
Total receipts	Rs. 747,923
Expenditure—normal	Rs. 825,646
Non-recurring	Rs. 19,731
Capital	5,461
Total Expenditure	Rs. 859,538

The lighting services is not self-supporting in Madras City.

376. A lighting tax is levied by municipalities in Madras under section 78 (1) (a) of the Madras District Municipalities Act, 1920, read with section 81 (1) (i). No maximum rate is prescribed and there are no restrictions on the levy of the tax. The restriction on spending annually more than Rs, 2,000 out of general funds on lighting without the sanction of the Government are similar to those obtaining

in respect of water rate, and when applications for such sanction are received the need for making the special account self-supporting is impressed upon the municipalities. Out of 91 municipalities in the State, a lighting tax is at present levied in 64.

377. The figures of receipts and charges under 'lighting' for 1948-49 of municipalities in Madras are given below :—

Receipts :	(1) Lighting tax	Rs. 923,078
	(2) Contribution from general allowance	Rs. 147,140
	(3) Other receipts	Rs. 7,499
		Rs. 1,062,719
Receipts :	Capital Loans	Rs. 1,983
	Other	Rs. 32,242
		Rs. 34,225
	Total Receipts	Rs. 1,096,944
Expenditure :	Ordinary	Rs. 970,834
	Capital	Rs. 20,959
		Rs. 1,000,793

There is an excess of receipts over expenditure.

378. **Bombay.** In the City of Bombay Municipal Act, 1888, there is no provision for a lighting tax or rate even though under section 61(2) of the Act, the lighting of public streets is one of the obligatory functions of the Corporation. The expenditure on lighting is met from the general funds of the Corporation. Likewise, there is no provision for the levy of a lighting tax in the Bombay Provincial Municipal Corporations Act, 1950.

379. There is, however, provisions for the levy of a lighting tax both in the Bombay Municipal Boroughs Act, 1925 (section 73 (XV) and the Bombay District Municipal Act, 1901 (section 59(a)(ix).

380. A lighting tax was levied in 1944-45 in 27 municipalities out of 131. The figures of income and expenditure under this head for 1944-45 are given below :—

Income	Rs. 3,14,300
Expenditure	Rs. 11,23,956
Deficit	Rs. 8,09,656

It will be observed that there was an overall deficit under this head of Rs. 8,09,656.

381. **West Bengal.** As already observed, the Corporatin of Calcutta does not levy any separate service tax but only a consolidated rate.

382. In mofussil municipalities in West Bengal a lighting rate is levied under clause (1) of sub-section (1) of section 123 of the Bengal Municipal Act,

383. Under section 125 the imposition of the lighting rates is subject to the following restrictions :—

(1) The rate should be imposed only on holdings within an area for the lighting of which a scheme has been sanctioned by the Government.

(2) The rate should not be imposed on lands used exclusively for purposes of the agriculture.

(3) The rate should not exceed three per cent. of the annual value.

(4) The rate should not be imposed until arrangements for lighting the lamps in the area have been completed.

384. A lighting tax is at present levied in 26 municipalities out of 76. In the remainder, no tax is levied because no lighting service is provided. The figures of income and expenditure under this head for 1946-47 and 1948-49 are given below :—

Income	1946-47	1948-49	Average income.	Percentage of Col. 4 to total average annual income.
	Rs.	Rs.	Rs.	
Lighting tax	3,66,919	3,88,367	3,47,643	2.6
Expenditure				Percentage of Col. 4 to total average annual expenditue
Lighting	4,45,109	7,86,901	6,16,005	4.7

It will be observed that the deficits in the lighting account are large.

385. **Uttar Pradesh.** There is no specific provision in the U.P. Municipalities Act 1916 for the levy of a lighting tax but there is a general provision permitting the levy of any tax which the State can impose, with the sanction of Government. Under this provision, the Municipal Boards of Mussoorie, Meerut, Khurja and Muradabad, who have their own electric supply undertaking, charge a general lighting rate to defray expenses of lighting the public streets.

386. **Punjab.** The statutory position in Punjab is similar to that in Uttar Pradesh. There is no provision in the Punjab Municipalities Act, 1911, for the levy of a lighting tax.

387. **Bihar.** A lighting tax is levied by municipalities in Bihar under clause (d) of sub-section (1) of section 82 of the Bihar and Orissa Municipal Act, 1922. The imposition of the lighting tax is subject to the same restrictions as in the case of the water rate. Under section 85, a maximum of 3% is prescribed in the Act. As regards the disposal of the proceeds of the tax, section 69 prohibits the diversion of such proceeds to objects other than those connected with the lighting system.

388. In 1943-44 the lighting tax was levied only by 2 out of 57 Municipalities and Notified Area Committees in the State. The income was Rs. 6,036. Figures for expenditure for that year are not available but the total expenditure on lighting of all municipalities in 1944-45 was Rs. 193,202.

389. **Orissa.** Though a lighting tax can be levied by all municipalities in Orissa (in North Orissa under the Bihar and Orissa Municipal Act, 1922 and in South Orissa under the Madras District Municipalities Act, 1920) no such tax is at present levied by any municipality. We have only been supplied with figures for 1940-41 when an expenditure of Rs. 56,478 was incurred on lighting.

389. **Madhya Pradesh.** The lighting rate is levied by municipalities in Madhya Pradesh under clause (1) of section 66 of the C.P. Municipalities Act, 1922. The only restriction on the imposition of this tax is that it may be imposed only where the lighting of public streets is undertaken by the municipality. The lighting rate is levied only by a very few municipalities in this State.

390. **Assam.** A lighting tax is levied by municipalities in Assam under clause (d) of sub-section (1) of section 59 of the Assam Municipal Act, 1923. The imposition of the tax is subject to restrictions similar to those which apply in the case of the water tax.

391. The tax is levied by only 3 municipalities in 1945-46 out of a total of of 28 municipalities and town committees even though expenditure on the lighting of public streets were incurred by 18 municipalities. The figures of income and expenditure for 1945-46 under this head are given below :—

Income	Rs. 44,682
Expenditure	Rs. 88,936

III—Drainage Rate

392. **Madras.** As already observed, the water and drainage tax is a composite tax that is permitted to be levied in the City of Madras by the Madras City Municipal Act, 1919 under section 98(4) read with section 99(1) "for the purpose of defraying the expenses connected with the water and drainage systems of the City". The drainage rate is at present levied at 2% of the annual value.

393. An extract from the drainage account for 1947-48 is given below :—

Receipts—normal		
(1) Drainage tax	Rs. 13,07,788	
(2) Miscellaneous receipts less rupees (-)	Rs. 5,749	
	Rs. 13,02,038	
Capital		
(1) Government grants	Rs. 2,50,000	
(2) Government loans	Rs. 6,00,000	
	Rs. 8,50,000	
Total receipts.		Rs. 21,52,638
Expenditure—normal		Rs. 19,01,744
Non-recurring		Rs. 81,447
Capital		Rs. 12,99,935
		Rs. 32,83,126

As in the lighting account, there is a large deficit in the drainage account also in Madras.

394. The provisions in the Madras District Municipalities Act regarding the levy of the drainage tax are similar to those in the City Municipal Act. The drainage tax is at present levied by 60 municipalities. An extract from the account for 1948-49 is given overleaf :—

Receipts—ordinary.

(1) Drainage Tax	Rs. 13,61,011
(2) Government Grants	Rs. 19,297
(3) Other receipts	Rs. 2,17,699
	Rs. 14,99,440
Contribution from general account.	Rs. 6,67,317

Receipts—capital

(1) Loans	Rs. 2,19,050
(2) Government Grants	Rs. 2,63,508
(3) Contributions from General Account	Rs. 96,679
(4) Other receipts	Rs. 16,30)
	Rs. 5,[illegible]97
Total :—	Rs. 27,56,854

Expenditure.

Ordinary	Rs. 15,05,896
Capital	Rs. 30,21,628
Total :—	Rs. 45,27,524

It will be seen that there is a deficit [illegible] the drainage account in the district municipalities also.

326. In addition there is provision in the Madras District Municipalities Act, 1920 for the levy of a conservancy tax "to provide for expenses connected with the removal of rubbish, filth or the carcasses of animals from private premises." It is not known in how many municipalities this tax is levied, as figures of income and expenditure under this head are not included in the printed statement of accounts of municipalities.

327. **Bombay.** There is no provision either in the City of Bombay Municipal Act, 1888 or in the Bombay Provincial Municipal Corporations Act, 1949 for the levy of a drainage rate. There is provision for the levy of a drainage rate in the Bombay Municipal Boroughs Act, 1925 [section 73 (XII)] but not in the Bombay District Municipal Act, 1901. Only five municipalities levy this rate.

328. The figures of income and expenditure under this head for 1944-45 in respect of municipalities in Bombay are given below :—

Receipts.

Drainage tax	Rs. 10,25,033

Expenditure.

Capital	Rs. [illegible]3,356
Revenue	Rs. 5,13,179
Total :—	Rs. [illegible]6,535

It will be seen that there is a surplus in the drainage rate also.

398. **West Bengal.** There is no provision for the levy of a drainage rate. Instead, under clause (*d*) of sub-section (1) of section 123 of the Bengal Municipal Act, 1932, a composite tax, called a conservancy rate is levied to meet the cost not only of cleaning and maintaining the drains but the cost of the specific service rendered to holdings, such as the cleansing of latrines as well as sweeping and watering the streets. Under section 126 the rate is not leviable at more than seven per cent. on the annual value of any holding. The service is not self-supporting in any municipality.

399. The figures of income and expenditure under this head for two recent years are given below :—

Income.

	1946-47	1947-48	Average income	Percentage on average income
	Rs.	Rs.	Rs.	
Conservancy (including scavenging)	16,06,902	18,77,899	17,42,400	13.1

Expenditure.

	1946-47	1948-49	Average expenditure	Percentage on average annual expenditure
III. (*b*) *Drainage.*				
(1) Capital outlay	39,504	51,371	43,437	5.3
(2) Recurring	586,692	7,24,301	6,55,496	
(3) Conservancy	38,65,282	51,69,679	45,17,480	34.2
	44,91,478	59,45,351	52,18,413	39.5

There is a large deficit of nearly Rs. 40 lakhs in the conservancy account. The conservancy rate is at present levied by 64 municipalities out of 76.

400. **Uttar Pradesh.** There is no drainage tax in Uttar Pradesh. But under clause (*xi*) of sub-section (1) of section 128 of the U. P. Municipalities Act, 1916, a scavenging tax can be levied. Under section 130, the imposition of the tax is subject to the following restrictions

(1) The tax should be imposed solely with the object of defraying the expenses connected with scavenging and that all monies derived therefrom should be expended solely on this object

(2) The tax should not be imposed on any holding in respect of which the municipality has not undertaken the work of scavenging.

No direction has been issued to municipalities to the effect that the service should by self-supporting. The Government of Uttar Pradesh have stated :—

> "The basis of assessment is the number of cess-pools, panalas (gutters) or abchaks (small drains) served. The tax is in force in only a few municipalities and its yield is small."

401. **Punjab.** There is no drainage rate in the Punjab.

402. **Bihar.** A drainage rate is leviable under certain restrictions as laid down in section 86-A of Bihar and Orissa Municipal Act, 1922. No municipality in this State, however, levies a drainage tax, though expenditure on drainage and sewerage is incurred by almost all municipalities. The total expenditure municipalities in Bihar on drainage in 1943-44 was Rs. 2,57,112.

403. **Orissa.** Though there is provision in both the Bihar and Madras Municipal Acts which apply to this State for the levy of a drainage tax, the tax is

not levied by any municipality, except Berhampur which levies a consolidated water and drainage tax of 8% of annual valuation.

404. **Madhya Pradesh.** The drainage tax can be levied by municipalities in Madhya Pradesh under clause (*m*) of sub-section (1) of section 66 of the C.P. and Berar Municipalities Act, 1922, "where a system of drainage has been introduced." The tax is, however, not levied by any municipality. An expenditure of Rs. 2,75,624 was incurred on drainage in 1943-44.

405. **Assam.** A drainage tax can be levied by municipalities in Assam under clause (*f*) of sub-section (1) of section 59 of the Assam Municipal Act, 1923. The imposition of the tax is subject to the following restrictions, under section 64:—

(*a*) that the tax shall not be levied on land used exclusively for purpose of agriculture ;

(*b*) that in fixing the amount or amounts of the tax regard shall be had to the principle that the proceeds of the tax should not exceed the amount required for constructing, extending, improving or maintaining the system of drainage, and,

(*c*) that the tax shall not be leviable until a system of drainage shall have been made in the area to be so provided.

The drainage tax is not at present levied by any municipality. An expenditure of Rs. 52,859 and Rs. 35,567 was incurred on this account by municipalities during 1945-46 and 1944-45 respectively.

IV—Latrine Rate

406. **Madras.** There is no tax in Madras corresponding to the latrine rate.

407. **Bombay.** The Bombay Municipal Corporation has to levy under section 139 read with section 140 (b) of the City of Bombay Municipal Act, 1888 a halalkhore, tax at a rate not exceeding three per cent. of the rateable value for cleaning privies, urinals and cess pools and for efficiently maintaining the municipal drains.

408. The figures of income and expenditure under this head for 1948-49 are given below:—

Income.

	1948-49 Rs.	1947-48 Rs.
Street cleansing and conservancy, road watering and Halalkhore service		
A. Halalkhore Tax (3%)	5,063,233	4,854,811
B. Miscellaneous	143,503	138,972
	5,206,736	4,993,783

Expenditure.

Street cleansing and conservancy, road watering and Halalkhore service	5,933,882	5,501,278
Roads, Drains and Sewers D-Cleansing of drains and sewers	744,926	660,447
Total	6,678,808	6,161,725

It will be observed that the service is not self-supporting.

409. In mofussil municipalities in Bombay there are two separate taxes corresponding to the latrine rate, viz ; (1) the general sanitary cess "for the construction and maintenance of public latrines and for the removal and disposal of refuse;" and (2) the special sanitary cess for private latrines, premises or compounds cleansed by municipal agency.

410. The Government have issued instructions to the municipalities that these services should be self-supporting. In a communication to this Committee the Examiner of Local Fund Accounts, Bombay, states :—

> "Though the Bombay Government have specifically directed the local bodies to keep the special conservancy services self-supporting, the special sanitary service of the local bodies in this Province is not generally self-supporting, partly owing to the heavy cost involved in the payment of dearness and other allowances to sanitary staff and partly to the reluctance of local bodies to levy an adequate rate to cover the cost of these services".

411. The figures of income and expenditure under this head for 1944-45 are given below :—

Income from general sanitary cess	Expenditure on general sanitation and conservancy	Income from special sanitary cess	Expenditure on special sanitation and conservancy
Rs.	Rs.	Rs.	Rs.
632,321	3,533,677	834,595	1,238,165

It will be seen that the income from general sanitary cess is only one-fifth of the expenditure on general sanitation and conservancy. Similarly, the income from special sanitary cess is sufficient to cover only two-thirds of the expenditure on special sanitation and conservancy.

412. **West Bengal.** Although the Corporation of Calcutta levies only a consolidated rate in lieu of a general property rate and the several service rates, a scavening tax is permitted under section 179 of the Calcutta Municipal Act 1923 and is realised in the form of a licence fee in respect of certain trades and callings involving the maintenance of animals which are likely to throw a lot of filth and excrement on the roads and other public places and impose additional burden on the municipal services. It is of course impossible in this case to relate the receipts to the expenditure involved.

As already stated when dealing with drainage rate, conservancy rate leviable by municipalities in Bengal under clause (d) of sub-section (1) of section 123 of the Bengal Municipal Act 1932 is a composite tax pertaining to conservancy, drainage and latrine services.

413. **Uttar Pradesh.** A latrine rate, described as a "tax for cleansing of latrines and privies;" is levied by municipalities in U. P. The tax is subject to the following restrictions :—

(a) the tax should be imposed solely with the object of defraying the expenses connected with the cleansing of latrines and privies, and that all moneys derived therefrom should be expended solely on that object.

(b) the tax should not be assessed on any house or building unless the municipality has undertaken the cleansing of latrines and privies in respect of such house or building.

The tax is levied by 21 municipalities and its average annual yield is Rs. 2 lakhs. As no figures of expenditure in respect of this particular service are available it is difficult to make any comparisons.

414. **Punjab.** There is no latrine rate in the Punjab. But "a tax payable by the owner or occupier of any building in respect of which the committee has undertaken the house scavening" is leviable by municipalities under clause (e) of sub-section (1) of section 61 of the Punjab Municipalities Act, 1911. No figures of income or expenditure under this head are available. The Examiner of local Fund Accounts observes;

> "Drainage, sanitation, and conservancy are essential beneficient activities which are statutory liabilities of local bodies. They are seldom, if ever, self-sufficient. Sanitation tax and conservancy tax have been levied by very few municipalities and even where these taxes are levied the incidence of these taxes is very low".

415. **Bihar.** A latrine rate on the annual value of holdings is levied by municipalities in Bihar under clause (e) of sub-section (1) of section 82 of the Bihar and Orissa Municipalities Act, 1922. Under section 86, the tax should be fixed at a rate so that the total net proceeds of the tax shall not exceed the cost of the service plus a proportionate share of the cost of supervision and collection.

416. The State Government have not issued any instructions to local bodies to the effect that the service should be self-supporting. The Accountant General, Bihar, however, states in a communication to the Committee:—

> "An attempt is always made by a municipality to make the conservancy fund self-supporting. Where in the course of audit, it is noticed that the conservancy fund has a debit balance. Suggestions are made through the audit reports to take measures to increase the rate of taxation to make the fund self-supporting and such suggestions are generally accepted".

417. The latrine rate is at present levied by 49 out of 57 municipalities and Notified Area Committees in this State. The figures of income and expenditure under this head for 1943-44 are given below :—

Income from latrine tax	Rs. 922,814
Expenditure on clearing) of latrines and urinals)	Rs. 874,738.
Total expenditure on) conservancy)	Rs. 1,460,924

418. **Orissa.** There is no provision in the Madras District Municipalities Act, 1920 which applies to the South Orissa Municipalities of Berhampur and Parlakimodi for the levy of a latrine rate which are governed by the Bihar and Orissa Municipalities. North Orissa Municipalities, Act, 1922 can levy a latrine rate. The Municipality of Berhampur levies a scavening tax at the rate of 4%. All the six North Orissa Municipalities levy a latrine rate at 7½%. The income of municipalities in Orissa from latrine rate was Rs. 174, 945 in 1946-47. As the figure of expenditure under the head for the corresponding year is not available it is not possible to make any comments. The Comptroller, Orissa, observes that in the municipalities of North Orissa where a separate account is kept for latrine rate, the service is not self-sufficient. No separate account is kept for other services. He further observes that in the case of municipalities where the tax is already levied at the highest limit prescribed by the Act, the municipalities are advised to reduce expenditure on the maintenance of special establishment in order to wipe out the debit balance of the special account. Such suggestions are generally accepted by the local bodies and acted upon as far as practicable. He admits, however, that the conservancy establishment and the accessories required for the purpose during these abnormal days renders it difficult to keep the expenditure on the special service within the receipts.

419. **Madhya Pradesh.** A latrine or conservancy tax is levied by municipalities in this State. The tax is payable by the occupier in respect of private latrines, privies or cess-pools or premises or compounds cleansed by municipal agency. In addition to this, "a tax for the construction and maintenance of public latrines" is also leviable by municipalities.

420. As regards the self sufficiency of this service the Government of Madhya Pradesh write that instructions have been issued in the past, impressing on the local bodies the desirability of making their services self-supporting, if necessary, by raising indirect taxation before resorting to indirect taxation. Results achieved in pursuance of such directions have not been very spectacular though in the case of water supply the majority of the municipal committees have kept their expenditure within their income from the tax from this source.

421. The Examiner of Local Fund Accounts has made the following observations on this point:—

(i) The services were not self-sufficient in all the local bodies. During the year 1947-48 the conservancy service was not self-supporting in 24 municipalities, drainage and water service in one each.

(ii) The services which are not self-supporting are invariably commented upon in the audit reports issued to local bodies with a view to enable them to take expedious action to make the services self-supporting. In some cases this has resulted in the services being made self-supporting during the subsequent year".

422. **Assam.** A *latrine tax, payable by the occupier, on the annual* value of holdings is levied by all the municipalties in Assam. The imposition of this tax is subject to the restriction that the total proceeds of the tax shall not exceed the amount required for cleansing latrines, urinals and cess-pools. The Government have not issued any instructions to the local bodies that the service should be self-supporting. The figures of income and expenditure under this head for 1945-46 are given below :—

Income.		
	Conservancy rate	Rs. 318,469
	Other receipts under conservancy.	,, 7,379
	Total	Rs. 325,848
Expenditure.		Rs. 565,135

There is a deficit of Rs. 2 lakhs in this account.

423. **General observations.** The foregoing analysis makes it clear that while the auditors have invariably pressed for self-sufficiency in the matter of service taxes and the State Governments have generally followed suit, the ideal has seldom been achieved except in the case of water supply. Water supply is self-supporting in all the States but Bihar and Orissa. But street lighting is not self-supporting in any of the States whose figures have been supplied to us and in some of the States (*e.g.* in the City of Bombay) such a levy is not permissible at all. In a few other Statas (*e.g.* Uttar Pradesh and Punjab) the Acts do not specially provide for levying a lighting rate though there is a general provision which entitles the local authorities to levy, with the consent of the State Government, any tax which the State Government itself is entitled to levy. The

aggregate deficit on this account in the States of Madras, Bombay, West Bengal, Orissa, Madhya Pradesh and Assam is nearly Rs. 15 lakhs As regards conservancy and drainage, although there is a multiplicity of taxes in different States (*e.g.* drainage rate, latrine rate, scavenging tax and the general and special sanitary casses in Bombay) the service is not self-supporting anywhere. The question, therefore, arises whether it is desirable to make a service self-supporting and, if so, what steps should be taken to achieve the purpose ?

The Committee gave very anxious consideration to this question but could not come to a unanimous decision. The majority of members are of the opinion that the cost of services principle, however equitable it may seem in the abstract, is not always capable of practical application.

424. The principle of self-sufficiency in respect of these specific services is not laid down in any of the Munic pal Acts. but seems to have been derived from an extension of the language used in those Acts, The relevant sections, as we have already shown, merely say that the rate should be fixed in such a way that the receipts do not exceed the amount required for providing the services. They prohibit the diversion of the proceeds of such taxes to other purposes but do not lay down the converse proposition that the expenditure on such services must be limited to such receipts and cannot be supplemented from general revenues in case the yield is insufficient. Such an extension of the meaning seems to be hardly justified because of the prescription of maximum limits on the percentage of service taxes in the different Acts. In West Bengal, for example, a maximum of 8½% is prescribed for water rate, 7% for conservancy and 3% for lighting. In the City of Bombay Halalkhore tax cannot exceed 3% and fire tax 1%. The expenditure incurred for providing such services on an adequate scale may conceivably and often does, exceed the receipts under those heads. The logical corollary to the principle of self-sufficiency, while the maximum statutory *limit* remains unaltered, would, therefore, be that if the expenditure shows a tendency to outrun receipts from the particular rate, the service itself should be cut down. This, in fact, is the length to which an auditor went when he suggested cutting down a service when the cost exceeded receipts. If this suggestion were accepted, the conservancy service in many municipalities, which are already in a poor way, but whose cost has gone up on account of the recent rise in wages, will have to be drastically reduced. The Committee cannot view this possibility with equanimity and are of opinion that the existing provisions of different Acts cannot be interpreted to mean that the principle of self-sufficiency must be rigidly adhered to in respect of service taxes.

425. We are not, of course, precluded from recommending that the Acts should be modified if we were convinced that the principle is sound. But we are not convinced that it is. The present classification of the municipal services into two categories, one to be financed from general revenues and the other from special rates, does not appear to rest on any logical basis. Nobody contends that municipal roads should be financed from a special levy, probably because it is impossible to calculate the special benefits that individual citizens derive from their use. If so, why should not the same principle apply to street lighting and even to the provision of piped water supply through street stand pipes ?

How can we differentiate between the general benefits derived from communications and those derived from conservancy and drainage, where such services are uniformly developed throughout the entire municipal area ? In what category would education and medical relief fall ? The second has always been financed from general revenues, while the trend of all progressive countries in modern times has been to make the first free and compulsory (upto a certain stage)

without making it exclusively dependent on any special education tax. Yet it may plausibly be argued that they offer special benefits, if not to the individual rate-payer, at least to the recipients of medical relief or primary education.

426. The fact is that it is impossible to have a clear-cut division between the services which, from their vital importance to the health and well-being of the residents of the urban area, are to be regarded as a legitimate charge on the general revenues and services which are to be regarded as ancillary conveniences to be purchased at a special price at the will of the rate payers. The principle which has gradually converted the old "police state" into the "welfare state" in the larger body politic has to be recognised even in the municipal sphere and functions hitherto regarded as optional have gradually to be brought within the ambit of the necessary duties of the local authorities. Moreover, if the ideal is that civic consciousness and a sense of unity of the community shall grow, it is more likely to be achieved if the burden is so distributed as to fall more heavily upon those capable of bearing it than upon those that cannot. Some of the poorest members of the community living in slums require more services is the nature of water supply and sanitation, but it would be unfair to impose upon them a proportionately heavy burden on that account which would follow from the acceptance of the cost of service principle. A special service rate is justified when the areas within municipal limits are differently developed. It would obviously not be proper to charge the entire body of rate-payers for services which benefit only a particular area. But when the development is uniform and all the services are evenly spread throughout the area, the case for special service rates disappears.

427. The conclusion of the Committee may be summarised as follows. Where special service rates exist they should yield as large a proportion of the cost as possible though it is probably impossible to expect them to pay for the cost in full. Such special service rates are justified in unevenly developed areas. They are also justified when an individual rate-payer derives any special benefit or makes use of a service in excess of the normal standard. But as the area tends to be uniformly developed, the case for consolidated rates becomes gradually stronger.

CHAPTER—VII

LOCAL FUND CESS

428. The sheet anchor of the revenues of district boards in this country is a cess on land called the local rate or the local fund cess in different States. It is assessed as a surcharge on land revenue or rent at varying rates in each State. It is collected through Government agency along with the land revenue and credited to the district board funds after deducting the cost of collection, which is not the same for all provinces, but varies generally from 2 to 4 per cent. The land revenue staff which collects the land cess would in any case have to be maintained for the collection of land revenue, and the cost of special staff for the adjustment of accounts between the Land Revenue Department and the district boards must be comparatively insignificant. We, therefore, think that state Governments might as well remit this charge altogether.

429. The following table shows the rates and basis of assessment of the cess in the various atates :

TABLE SHOWING THE RATES AND BASIS OF ASSESSMENT OF LOCAL CESS

State	Name of Cess	Basis of assessment	Rate
1	2	3	4
Madras	Land Cess	Of annual rent value of land which shall be the full assessment payable puls water rate in the case of ryotwari and inam lands and annual rent in the case of others.	Two annas in the rupee.
Bombay	Local Fund Cess	of land revenue	Three annas in the rupee.
West Bengal	Road and Public Work Cess	(a) of annual value of lands or of annual net profits from mines, quarries, tramways, etc.	Half anna per rupee
		(b) on land used for tea, coffee and cinchona cultivation.	Rupees ten per acre.
Uttar Pradesh	Local Rate	of the annual value of land which is defined as twice the land revenue payable.	9-3/8% compulsory maximum.
Punjab	do	do	One anna to four annas per rupee.

1	2	3	4
Bihar	Road and Public Works Cess	(a) of annual value of lands	2 annas in the rupee.
		(b) of the annual net profits from mines and quarries	One anna per rupee.
Orissa	Local Cess Land Cess	(a) of the annual value of lands or annual net profits.	from annas 2 to annas 4 per rupee.
		(b) of the Kamilzama assessed on every zamindari and Malguzari village in Sambalpur District.	12½%
Madhya Pradesh	Land Cess	of land revenue or annual rent	18 pies per rupee.
Assam	Local Rate	(a) Revenue free land or land paying land revenues at a rate not exceeding rupee one per acre.	Re. 1/- per acre.
		(b) Other revenue paying lands	Annas eight per acre or upto a maximum of annas two per rupee whichever is higher.
Ajmer Merwara	do	of the land revenue	4½ pies per rupee.
Coorg	Land Cess	of the annual rent value of all lands which is assumed as equivalent to the assessment leviable.	Three annas in the rupee.

It will be noticed that the cess is differently designated in each State as under :—

Land Cess :— Madras, Madhya Pradesh, Coorg and two southern districts of Orissa.

Local Cess:— Orissa.

Local Fund Cess :— Bombay.

Local Rate :— Uttar Pradesh, Punjab and Ajmer-Merwara

Road and Public Works Cess :— Bengal and Bihar.

430. Similarly, the basis of assessment is not uniform in all the States. It is (i) "annual rent value" in Madras and Coorg ;

(ii) "annual value" in West Bengal Uttar Pradesh, Punjab, Bihar and Orissa ;

(iii) "Land Revenue" in Bombay, Madhya Pradesh and Ajmer-Merwara.

The annual rent value is defined as 'full assessment' in Madras and Coorg. The 'annual value' in Uttar Pradesh and Punjab, is twice the land revenue. Thus in effect the levy of the cess at least in the case of seven States is based on the land revenue. In Bengal, Bihar and Orissa the sum total of all rents payable by a cultivating tenant plus a sum total of what would have been the reasonable rent of rent-free land or lands held in *Khas* is adopted as the 'annual value of land'. Thus the basis of calculation is the rent actually paid or potentially payable by the actual tiller of the soil. Whereever levied as a surcharge on land revenue, the cess like the former has the feature of certainity in incidence in as much as the individual liable knows the amount he has to pay. Nor is it inconvenient as regards the time and manner of payment, as it is recovered along with the land revenue assessment. Also its recovery through Government agency makes it economical to the district boards who have not to maintain any special staff for its collection. It is devised on a flat rate basis regardless of the ability to pay of the individual concerned or the taxable capacity of the lands on which it is imposed.

431. There is further variation between States as regards the person who pays the cess. In ryotwari areas it is levied from the landholder, who may or may not shift it when subletting his land. In the Central Provinces and Berar the Izardar is liable to pay the cess in a village in which the proprietary title has been conferred under the Waste Land Rules of 1865. In an unalienated village the cess is payable by the occupants ; in the case of alienated plots by the holders thereof.

432. In the United Provinces, the cess is payable by the land-lords but every tenant is liable to pay to his land-lord such number of pies per rupee of his rent or of the rental value of the land held by him as the State Government may prescribe. In the Punjab, the landholder is liable for the local rate. When the rate is payable by a landholder in respect of lands held by a tenant with a right of occupancy holding at a favourable rent, the landholder may realise from the tenant a share of the rate.

433. In the permanently settled areas in Madras the cess is collected from the landholder, who is empowered to recover one-half from his tenant. In Bengal, the landlord pays the entire amount of the cess, less a deduction calculated at half the rate of the cess for every rupee of land revenue paid by him. He is, however, entitled to recover from the tenure-holders the entire cess demand, less an amount determined at half the rate of the cess for each rupee of rent payable by the latter. The cultivating ryot is liable to pay to the person to whom his rent is payable one half of the cess due on the land held by him at the prescribed rate or rates.

434. The sub-joined table gives the all-India figures of income from local cess since the year 1889-90 :

Year	Total income of district boards in India	Local Cess	Percentages
	Rs.	Rs.	
1889-90	2,67,83,682	1,57,58,643	58.8
1894-95	2,98,09,539	1,70,24,930	57.1
1907-08	4,75,40,991	2,31,06,784	48.6
1918-19	8,53,83,671	3,70,17,914	43.3
1925-26	12,06,04,058	4,85,05,906	40.2
1946-47	15,55,31,309	5,22,28,921	33.5

It will be seen from the above figures that while the increase in total income during the period has been roughly 13 crores, the total increase in the local cess, which forms the only major source of independent income, has been only 3.66 crores. The balance of the increase has been chiefly made up by Government grants.

435. The table below shows the income during 1946-47 from local cess of the district boards in the various States and the percentage it represents of the total income from all sources and its per capita incidence in each :—

State	Number of District Boards	Total income from all sources	LOCAL FUND CESS Income from local cess	Percentage of total revenue	Per capita incidence
1. MADRAS	24	5,72,78,682	1,09,37,407	10.0	-/3 8
2. BOMBAY	20	4,63,30,468	61,74,191	13.0	-/6.1
3. WEST BENGAL	13	74,31,976	37,13,818	49.9	-/3/5
4. U. P.	49	2,95,30,000	92,10,000	47.1	-/3 -
5. PUNJAB	13	1,16,03,637	25,78,351	22.2	-/4 -
6. BIHAR	17	1,60,38,438	85,10,913	53.06	-/3,9
7. ORISSA	6	44,59,825	6,53,906	14.6	-/1/2
8. MADHYA PRADESH	25	79,70,713	37,86,978	50.02%	-/4/1
9. ASSAM	19	56,30,806	16,48,532	29.2%	-/3/-

It will be observed from the above statistics that the per capita incidence of this tax varies from Rs. 0-1-2 in Orissa to Rs. 0-6-1 in Bombay. The average per capita incidence for all the States works out at Rs. 0-3-7. Similarly, the column showing the percentage result discloses that the lowest percentage recorded, viz., 10 is in respect of Madras and the highest 53.06 for Bihar. The average of the percentages works out at 32.12 which roughly approximates to one-third of the aggregate revenues of the district boards.

RATE

436. **Madras.** The land cess in Madras is at present levied at a uniform rate of annas two in the rupee of land revenue of which one-fourth is credited to panchayat areas and the balance paid to the district boards. We do not recommend any increase in the cess in view of the fact that the education cess is being levied seaprately at a fairly high rates.

437. **Bombay.** The cess is known as 'Local Fund Cess' in Bombay. Its levy is traced to the year 1860, when it was the practice to levy a cess of one anna on every rupee of land revenue for provision of local amenities like dispensaries, schools and roads. The levy was for the first time placed on a statutory basis by the Bombay Local Fund Act, 1869. That Act was repealed by the Bombay Local Boards Act, 1884, which ultimately was superseded by the present Bombay Local Boards Act, 1923. Under section 93 of that Act, the Local Fund Cess was leviable at the rate of one anna on every rupee payable as ordinary land revenue or which would be so payable had there been no alienation of land revenue, but the rate could be enhanced up to two annas in the rupee on a resolution passed by the district local board. The rise in prices during the war years obliged most of the boards to increase the rate to the permissible maximum of annas two per rupee, but even this proved inadequate. The Act was, therefore, amended in 1945 to

provide for a minimum and maximum of annas two and three respectively. In 1948 it was further amended to provide for the levy of a compulsory uniform rate of annas three per rupee. The Government have also power under section 95 of the Act to levy Local Fund Cess at a rate exceeding three annas on every rupee of water rate leviable under the provisions of the Bombay Irrigation Act, 1879. Local Fund Cess levied on agricultural lands in municipal limits is credited to the district local boards and not to municipalities. As a rule agricultural lands within municipal limits are few and the local fund cess collected in respect of them small. We do not think that any further increase in the cess is called for.

438. **West Bengal.** There is no tax known as local fund cess in Bengal. There is, however, a provision for the levy of road public works and education cesses, the assessment and collection of which is arranged by the Government. The collections of the road and public works cesses are paid to district boards after deducting the cost of collection. The proceeds of the education cess are credited to the District Primary Education Fund, which is managed by the District School Board, a body quite distinct from the District Board. The maximum rate at which the road cess can be imposed is half an anna per ruppee on the annual valuation of land. The district boards in West Bengal are actually levying this cess at the maximum rate. Tht rate of public works cess is determined entirely by Government, and is being levied at the maximum rate. The road and public work cesses are both levied under the Cess Act of 1880 (Bengal Act IX of 1880) on the annual value of lands.

It was pointed out to us in evidence that a Conference of District Board Chairmen unanimously resolved that for the improvement of district board finances it was essential that these cesses be doubled. A proposal to that effect was made to the Government of West Bengal some time ago. But no decision has yet been arrived at. We consider that in view of the large increase which has taken place in the price of paddy, this proposal to double the cesses is sound and should be expedited. Bihar has already doubled the rate and there is no reason why Bengal should not follow suit. The Bihar and Bengal rates are based on almost identical considerations.

439. **Uttar Pradesh.** The cess is khown as 'local rate' in Uttar Pradesh. Section 108 of the District Boards Act, 1922 provides that "with the previous sanction of the Provincial Government, a district board may, by notification impose and may in the like manner abolish or alter the rate of either or both of the following taxes:—

(a) a local rate
(b) a tax on circumstances and property"

Up to April, 1938 the local rate was assessed at a prescribed amount not exceeding 6¼% upon the 'annual value' of any estate. Annual value in this context means:—

(a) where the settlement of the land revenue is liable to periodical revision, double the amount of the land revenue for the time being assessed on an estate.

(b) where such settlement is not liable to periodical revision, or where the land revenue has been wholly or in part released, compounded for, redeemed or assigned, double the amount which, if the settlement were liable to periodical revision, or if there had been no such release, composition, redemption or assignment, would have been assessed as land revenue on the estate.

Since May 1948 the imposition of local rate at 9-3/8 per cent. of the annual value has been made compulsory for all district boards, whereby the district boards are

expected to receive an additional income of Rs. 60 lakhs per annum. As the rate is already three annas in the rupee of land revenue we have no further recommendation to make.

440. **Punjab.** In the Punjab also the cess is designated as local rate. Section 5 (1) of the Punjab District Boards Act, 1883, provides that "all land shall be subject to the payment of a rate, to be called the local rate, at one anna per rupee of its annual value. The latter is defined in section 3 (4) as double the land revenue for the time being assessed on any land whether the assessment is leviable or not. Thus the statutory minimum is 12 pies per rupee on the annual value of land or 24 pies per rupee of the land revenue. The average rate in most of the districts is, however, reported to be 24 pies per rupee. In the absence of a statutory maximum, the rate in some districts is reported to be as high as four annas per rupee. In district boards where the cess is being levied at 24 pies in the rupee of land revenue, we recommend that the cess should be raised to at least 36 pies in the rupee.

441. **Bihar.** The Bihar Local Self-Government Act, 1885, embodies identical provisions on the lines of the Bengal Act. Section 46 of that Act reads as under :—

> "A District board, on or before the day prescribed in the rules made by the Local Government under this Act, shall hold a meeting for the purposes of fixing the rate at which the road cess shall be levied in the district during the ensuing year".

The cess is assessed at a rate not exceeding one anna on each rupee of the annual value of lands and on the annual net profits from mines and quarries and from tramways, railways and other immovable property.

With effect from April 1949 the rate has been increased to annas two in the rupee of the annual value of lands in all districts. The State Government, however, consider that the resultant increase in the yield is not likely to improve the financial position of the boards as the excess over the previous income is ear-marked for expenditure on primary education. We are of the opinion that this rate of two annas in the rupee should be earmarked for general purposes and a separate education cess of one anna levied for educational purposes.

442. **Orissa.** Having been carved out partly from the old Madras and Bengal Provinces two different systems of local cess prevailed in Orissa. In the northern districts the levy was regulated by the provisions of Bihar and Orissa Local Government Act, 1885, while in the southern districts of Koraput and Ganjam by the provisions of the Madras Local Boards Act, 1920. The result was that in the northern districts the rate of cess was Rs. 0-2-6 in the rupee on the annual value of the holdings, whereas in the southern districts of Koraput and Ganjam the rate was Rs. 0-2-0 (land cess) for general purposes plus 4½ pies (education cess) per rupee of the land revenue payable by the tenants to the Government. The levy in the Sambalpur district was on the other hand regulated by the entries in the settlement proceedings because the Bengal Cess Act had ceased to be in operation. With a view to improving the finances of district boards a new unified Act provides for the levy of a minimum of annas two and a maximum of annas four per rupee and for an enhanced rate of 12½% for the Sambalpur district. We think that the actual rate should be raised to annas three per rupee.

443. **Madhya Pradesh.** In the Madhya Pradesh, the former District Councils (as the District Boards were called) have been abolished and replaced by new units designated as Janapada Sabhas created under the C. P. & Berar Local Government Act, 1948. Under the scheme of that Act (sec. 31) for the purposes of

local government the State is divided into administrative areas known as "Janapadas". Section 85 provides that

> "every proprietor of an estate, mahal or malik-makbuza plot and every holder of a survey number and every tenant (other than sub-tenant) shall be liable to pay a cess at the rate of 18 pies per rupee or part thereof on the land revenue or rent, as the case may be, payable thereon, or if the land revenue or rent or any portion thereof be compounded for or redeemed, on the kamilzama of such estate, mahal or malik-makbuza plot or survey number or if the land is held rent free or at reduced rent or an favourable conditions, on the rent fixed on such land, for the maintenance of schools or roads or for any other purpose under this Act."

Section 86 further vests in the Janapada Sabhas the option to levy additional cess for this purpose as follows :—

> "With the previous sanction of the Provincial Government, a Sabha may by a resolution passed at a special meeting convened for the purpose, impose an additional cess for the maintenance of schools or roads or for any other purpose of this Act, at a rate not exceeding twelve pies in the rupee."

The rate at present levied is low and should be raised to three annas in the rupee.

444. **Assam.** The levy of "local rates" as they are called in Assam is regulated by the Assam Local Rates Regulation III of 1879 as amended by Assam Act VI of 1926 and XIV of 1949. Under the scheme of these enactments, the rates vary from one anna six pies to two annas per rupee of the land revenue from district to district. The rate of rupee one per acre is, however, charged for revenue free lands and lands paying land revenue at the rate not exceeding rupee one per acre. For other revenue paying lands the rate is eight annas per acre or varying between 1½ to 2 annas per rupee of the land revenue, whichever is higher. As the economic condition of the cultivator has substantially improved, the Government of Assam consider that there exists a case for further increase in rate by an additional anna in the rupee to which at least some of the Boards are reported to be favourable. We think that the local rate should be raised to three annas in the rupee.

445. **Ajmer-Merwara.** Under Section 2 of the Rural Boards Regulation, 1886, the levy of a local rate not exceeding three pies per rupee was authorised in Ajmer-Merwara. This was raised to 4½ pies in 1926 (Regulation V of 1226). Further enhancement of this rate is reported to be under consideration. This is, in view of present prices, a very low rate. It should be raised to annas 1½ and later to three annas by gradual stages.

446. **Coorg.** Section 3 of the Coorg District Fund Regulation 1900 provides that the Provincial Government may by notification in the Coorg Gazette impose a land cess being a tax on the annual rent value of lands. Section 3-A lays down that the land cess shall be levied on the annual rent value of all occupied lands on whatever tenure held and shall consist of a tax not exceeding three annas in the rupee on the annual rent value (equal to assessment) of all such lands as may be fixed from time to time by the Chief Commissioner by notification in the official Gazette. Since April 1948 the cess is being levied at the maximum permissible rate of annas three in the rupee. Coorg is in all respects similar to Madras, and the standard of living is a little higher. The rate for Coorg should not be lower than that for Madras.

447. When we took evidence in Patna, it was brought to our notice that the Bihar Abolition of Zamindari Act has affected the payment of cess by the holders

of such estates. In some district boards the cess collections were as low as 63 per cent. of the demand. The arrears of cess before the September 1949 Kist are said to be Rs. 1,10,81,206 which is a very large sum. We were informed that there is some legal difficulty which comes in the way of cess collections being treated in the same way as collections of land revenue. The State Government is adopting what was described as certificate procedure and attachment of estates under section 99 of the Cess Act for realisation of arrears of cess. In the meanwhile, the State Government is giving district boards temporary loans to enable them to tide over this financial emergency.

In the two other States which are concerned with the question of abolition of zamindaries, namely, Madras and U. P., it was not represented to us that the district boards have suffered the kind of loss which boards in Bihar are suffering. But the problem is the same in all the three States.

448. The Madras Government have informed us that they have under consideration a proposal to amend the Madras Local Boards Act, 1920, so as to provide that when zamindaries are abolished, land cess shall be paid on the present zamindari lands by the ryots concerned on the basis of the ryotwari assessments which be fixed for payment by the ryots. If the income from land cess is reduced considerably under this arrangement the question of increasing the rate of land cess payable by the ryots will have to be considered in due course.

The Government of Bihar have, as far as we could gather, not decided on any policy in this matter. But we are satisfied that they will not leave this question unsettled very long. In our discussion with them they assured us that they will see that the financial interests of district boards in the matter of cess collections are not adversely affected by the abolition of Zamindaries.

449. With the abolition of Zamindari, the responsibility for the payment of cess will have to be definitely fixed either on the government or on the tenant who holds directly from the government. Who the person should be and what should be his share offinancial responsibility is matter of policy on which we do not wish to express any opinion. Our entire concern is to stress the point that the interest of district boards should not be prejudicially affected by the abolition of Zamindari.

CHAPTER VIII

OCTROI AND TERMINAL TAXES

450. **History of octroi.** Town and market dues of a character similar to the existing octroi duties were in vogue under the ancient Hindu rulers of India, although they were assessed and collected on a very different system to the one now in existence. They are described by Manu. Magasthenes and Strabo refer to them in some detail. The *Ain-i-Akbari* records that octroi duties were in force during the period of Moghal power and that the duty of collection was in the hands of the City Kotwal. At that time these duties formed part of the revenues of the State, and were called "Chungi", a persian word, meaning a handful, to denote handfuls taken from merchants in satisfaction of the demand of the State. In the 18th century, the transit of goods by road and river was subject to Inland duties and the East India Company enjoyed a valuable concession from the Moghul rulers in the shape of exemption of its trade from these duties.

451. Not only in India but on the continent of Europe also, octroi has been familiar since the days of the Roman Empire. The tax was originally levied by Roman towns on wines and certain articles of food imported or exported. It was intoduced by the Romans in Gaul and continued there after the invasion of the Franks. The privilege of levying this tax was granted to French towns by the King but occasionaly the Government claimed a percentage of the proceeds. The tax has, however, been abolished in European countries as it was an impediment to industry and commerce and raised the prices of common commodities and necessaries of life. Belgium, Holland, Denmark, Sweden and Norway are among the countries which have, it is understood, replaced octroi by other taxes.

452. In the early years of the nineteenth century, various legislative attempts were made in India to regulate town duties and the customs duties which they resemble. Both these imposts were dealt with in Regulation VI of 1805. At the time of this regulation the octroi barrier was similar in nature and purpose to the "customs line" each being machinery for the collection of revenue for the Government. From an item of State revenue, octroi developed by successive stages to its present position as an important source of muincipal income. Under the Regulation of 1805, octroi was levied on articles imported for consumption or use within the town a form which this impost has retained to the present day.

453. In the days of the East India Company, the evil effects of octroi duties were repeatedly brought to notice. The East India Company being orginally a trading company, felt the vexatious character of these hindrences to trade. In 1828 Lord William Bentinck employed Sir Charles Trevelyan to make an enquiry into these inland transit duties. His report showed that the evils of the transit duties and considerably increased under British rule and that inland trade and manufactures were stifled by this system. In 1835 Lord Ellenborough commented very severely on the evils of the system. He wrote to the East Indian Company :—

> "No less than 235 separate articles are subjected to inland duties. The tariff includes almost everything of personal or domestic use, and its operation, combined with the system of search is of the most vexatious and offensive character, without materially benefiting the revenue. The power of search, if really exercised by every custom-house officer, would put a stop to internal trade by the delay it would necessarily occasion. It is not exercised except for the purpose of extortion".

"The effect upon the national morals is yet more serious than the effect upon national wealth. Every merchant, every manufacturer, and every traveller is, as it were, compelled, for the security of his property or the protection of his personal comfort, and not infrequently for that of the feelings of the females of his family, to enter into unlawfull collusion with the officers of Government. It is a system which demoralises our own people, and which appears to excite the aversion of all the foreign traders of Asia."

Still the East India Company was reluctant to take any action but the publication of Sir Charles Trevelyan's report and the action of some of its own servants in India forced its hand. Sir Charles Metcalfe abolished the inland customs duties in Bengal in 1835 and soon after the two duties which has developed as part of the system. In 1842 Lord Ellenborough abolished both in Sind and Madras.

454. An important enunciation of the principles on which octroi should be lovied was drawn up in 1864 by Sir Charles Trevelyan. The following extract from a resolution issued in that year indicates the attitude of the Government of India at that time—

"Town duties are very effective for raising money. They existed under the Native regime, under the name of *Choongee*, or handful, implying that everything that passed had to pay a small contribution, and in some parts of India they are more popular than direct taxes of any kind. If they could be confined to things consumed in the town without interfering with the trade, they could be only open to the objection that they fall in undue proportion upon the poor. But after a full trial of this tax in Bengal and the North-Western Provinces, it was abolished in 1835, as being alike injurious to the general trade and to the towns immediately affected. Town duties have been lately re-established as a municipal tax in many places in the North-Western Provinces, Oudh and the Punjab, and the old vice of interference with the general trade immediately reappeared, with the additional aggravation that this time the public at large were mulcted for the advantage of local interests.

"The uncheked multiplication of these local exactions would soon reproduce the worst evils of the old transit and town duties.

"The town duties which were abolished in 1835 were levied only upon eight articles of local consumption, but there appears to be no limit to the number of articles upon which they are exacted since they have been revived as a municipal tax. There are 197 articles, many of which branch out into numerous sub-divisions, upon which town duties are levied in Sitapore in Oudh. At Broach they amount to 182 under the head of 'Articles imported for consumption,' 5 under 'Raw meterial imported to be manufactured' and 51 under 'Articles exported', or 238 in all, without including sub-division. This multiplication of petty exactions is open to great objection. The tax ought to be confined to a few articles of local consumption, such as ghee, firewood, fruit, vegetables, fowls, eggs and animals for slaughter which do not enter into the general trade of the country, and which being recognisable at first sight, do not involve the stoppage and search of other commodities".

455. These principles were reiterated in 1868 and accompanied by orders as to the articles on which octroi could be levied. The imposition of octroi was

prohibited on salt, opium, fermented or spirituous liquors and articles liable to customs duty and imropted by sea into India. The levy was permitted in the case of the following articles :—

(1) Articles of food or drink.

(2) Animals for slaughter.

(3) Articles for fuel, for lighting or for washing.

(4) Articles used in the construction of buildings.

(5) Drugs, gums, spices and perfumes.

(6) Tobacco.

To this list were subsequently added piece-goods and other textile fabrics and metals and articles of metal.

The Government further ordered :—

(1) that on the exportation from a town of dutiable goods the octroi levied on them should be refunded ;

(2) that municipalities should provide bonded ware-houses or other appliances for the storage of goods in transit, for the use of which reasonable fees might be levied ;

(3) that tolls on entering municipal limits should not be levied except for the use of any bridge, quay, wharf, lock or other work constructed or maintained at the cost of the municipality ; and

(4) that goods the property of Government should be exempt from municipal taxation.

456. The next important declaration was made in 1890, when the Government of India, finding that many abuses had arisen, considered it necessary to intervene again. They advised the provincial governments that :—

(1) the articles taxed should be main staples of local consumption and should be as few as possible ; and

(2) the utmost facility should be given by way of arrangements either for passing articles through town limits under bond or for facile refund on exit of duties levied on entrances.

457. **A change of policy begins in 1903.** In 1903, for the first time, this policy was radically altered. It was then found as a result of enquiries that there was a consensus of authoritative opinion that indirect taxation by the population of Northern and Western India and that the Government of India, coupled with the increasing demands of the administration, had been to compel municipalities either to enhance their rates of octroi on the necessaries of life or to resort to the unpopular expedient of a house-tax. In deference to these views the Government of India modified their earlier policy and issued the following instructions for the guidance of municipalities—

(1) The articles taxed should be as a rule the main staples of consumption and should in any case be as few as possible.

(2) Articles which were mainly products of the country might be taxed more highly than those which were not.

(3) The necessaries of life should in all cases be taxed moderately.

(4) Luxuries might be taxed more heavily than necessaries but a high octroi should not be imposed on tobacco, which was almost the only luxury of the poorer classes.

458 **The United Provinces Committee of 1908.** In 1908 a committee appointed to inquire into the question of municipal taxation in the United Provinces examined the whole question of octroi in great detail. They found innumerable abuses and condemned the system of octroi in very severe terms. Their main recommendations were.—

(1) Abolition of octroi in those towns in which it would be replaced by direct taxation, for instance, by the imposition of a tax on circumstances and property;

(2) The substitution for it elsewhere of a serminal tax on the lines indicated below: —

(a) The tax should be imposed on all imports at rates lower than the existing octroi rates.

(b) There should be no refunds.

(c) There should be no advalorem assessment.
The tax should be on the maundage pasaed and the rates applied equally to all goods.

(d) It should be collected by the railways.

(e) Passengers' luggage and parcels under 20 seers should be free.

(f) Goods imported and rebooked without breaking bulk should not be charged.

(g) A corresponding impost on goods imported by road should be levied in the shape of a toll, fixed with reference to the maundage rates on rail-borne goods.

(h) The anomaly that uniform maundage rate would cause the tax to fall most lightly on the most valuable classes of commodities, should ordinarily be rectified by a direct tax on traders in those classes of goods, preferably in the form of a license tax.

(i) Uniform rates in every municipality were undesirable, and rates should be fixed to suit circumstances.

(j) No attempt should ordinarily be made to meet the whole requirements of the municipality from such a tax.

459. The Government of India, after consulting the Governments of provinces in which octroi duties were in existance yielded to the volume of practical experience and the unanimity of opinion against the system of octroi taxation and agreed to the imposition of a terminal tax as being one which was on the whole less likely to be burdensome on through trade than octroi with a problematical refund. They sanctioned as an experimental measure the substitution in the United Provinces of direct taxation for octroi in the smaller towns, and the application to a large number of other towns in which conditions were suitable of the system of a terminal tax, or light transit duty on import or export, subject to no refunds.

460. The next stage is marked by the issue of a resolution in April 1915, in which the Government of India laid down the restrictions subject to which a terminal tax should be levied. These were as follows:—

(1) The terminal tax, wherever imposed, should be substantially lower in its rates than the octroi which it replaces;

(2) It should be limited to places where there were special grounds for applying it, which must be adequately demonstrated;

(3) It should be regarded as facilitating the transition to a system in which direct taxation would form an increasingly important

factor, not as an elastic means of progressively increasing the resources of municipalities apart from normal developments due to increase of traffic; and

(4) It should not be adjusted with the primary object of compensating municipalities for the loss of octroi.

461. **Further change of policy in 1917.** These orders failed to a great extent of their purpose and in the year 1917 the Government of India made a further advance towards the position which the municipal administrations were anxious to secure. This is illustrated by the memorandum of principles governing the imposition and collection of the terminal tax which was issued for the guidance of provincial Governments on 6th July 1917. The more important of these principles were :—

(1) That in municipalities where octroi had not been previously levied the previous sanction of the Government of India must be obtained to the imposition of a terminal tax

(2) That the tax should not necessarily be looked upon as a step towards an increasing degree of direct taxation, but might be introduced merely in order to replace octroi, provided that the receipts from the terminal tax did not materially exceed those from the octroi which it superseded.

(3) That the tax should ordinarily be imposed on imports only, but there was no objection to the taxation of exports as well as imports in places where municipalities were large centres of export trade.

(4) That the taxation of salt, opium and excisable articles, including materials used in manufactures and mineral oil, should always be kept at low figures.

(5) That refunds in the usual sense of the term should not be allowed.

(6) That the description of the articles to be taxed should as far as possible be adapted to the railway classification of goods.

These rules were intended to provide the necessary safeguards to secure that the tax was kept light, that it was worked as simply as possible, and that the convenience of the railways, through whose agency it was to be collected, was always consulted.

462. Up to this stage all powers of taxation were centralised in the Government of India and Provincial Governments had no independent powers of taxation. With the inauguration of the Montagu-Chelmsford Reforms specified sources of revenue were placed at the disposal of Provincial Governments for purposes of provincial administration. In addition Provincial Governments were authorised to impose without the previous sanction of the Governor-General, any of the taxes specified in the Scheduled Taxes Rules, while for other taxes the sanction of the Governor-General was necessary. The taxes which could be levied by local authorities under legislation passed by the Provincial Legislature were specified in Schedule 2 of the Scheduled Taxes Rules. Octroi formed item 7 of this schedule. Item 8 related to terminal tax and read as follows:—

"Terminal taxes on goods carried into or exported from a local area save where such tax is first imposed in an area in which octroi was not levied on or before the 6th July, 1917".

The result was that a reference to the Government of India was necessary only when terminal tax was imposed for the first time in an area in which an octroi was not levied on or before the 6th July, 1917, but once a terminal tax was sanctioned or where the terminal taxes were substituted for octroi by the Provincial Government, the sanction of the Government of India was not required to the revision of the rates and Provincial Governments were free to raise them to any figure they considered necessary. In the case of the Central Provinces (Madhya Pradesh) even this restriction did not apply since, with previous approval of the Government of India a clause was inserted in 1921 in the C. P. Municipalities Act 1922 to levy a terminal tax without reference to them.

It was during that period the terminal taxes were introduced in several municipalities in India.

463. The Indian Taxation Enquiry Committee (1924-25) criticised the octroi and terminal taxes in the following words :—

> "In the form in which they (octroi and terminal tax) are levied in India, they offend against all canons of taxation. They are uncertain in their incidence. Their collection and the system of refunds, which form an essential feature of octroi puts the person paying the tax to a great amount of inconvenience. Where they are imposed on the necessaries of life as in India, they do not proportion the burden to the means of the payer and the expense of collection and the facilities for fraud are disproportionately large, with numerous bodies independently taxing trades, it is impossible to know what are the burdens trade is really carrying and quite impossible to ensure their being adjusted in any way fairly among different articles and goods. The popularity of these taxes is due to the fact their incidence is shifted and that it is very difficult to determine on which classes the burden ultimately falls. The collection of terminal tax through the railway agency has removed all the administrative difficulties inherent in a system of octroi and there is a tendency among municipalities to resort to the tax whenever they are in financial difficulties because the local authority can in this case transfer the odium of collection to the railway company. The tax is also very defective from the educative point of view, since it does not encourage sense of responsibility among the electors, who do not directly feel the burden of the tax. Sir Josiah Stamp sums up the case as follows :—
>
> > 'In my judgement, both theoretically and on the result of experience, no country can be progressive that relies to any extent upon octroi, which has nearly every vice.' "

464. Some of the improvements suggested by the Taxation Enquiry Committee were :—

(1) The rates of taxation should be low in all cases and especially so in the case of necessaries of life and articles that are subject to Imperial or Provincial Taxation.

(2) In order to prevent the tax from developing into a transit duty, arrangements should be made for prompt refunds on exported good, and for bonding goods intended for through transit.

(3) The tax should not be levied on goods imported and re-exported without break of bulk.

(4) There it is though legitimate to derive a municipal revenue from a single staple, *e.g.*, from cotton ginning in a town, it is better to impose the tax direct on the output of the ginning mill.

(5) The levy of a tax on goods exported from a municipality should not be permitted, save in exceptional cases where it is already in existence.

(6) Goods not leaving a railway yard, or only leaving part premises for a railway, and merely transhipped at the yards or port premises should not be subject to any duty whatever.

465. While affirming the view that the terminal tax "should be eliminated altogether in due course from the tax schedule of the Corporation", the Delhi Municipal Organisation Committee (1947) considered that "the immediate objective may be reform rather than abolition" and accordingly recommended that "in the imposition of the tax, the Corporation might distinguish between articles of consumption which are imported ready for use and those which are imported as raw material or in a semi-manufactured condition and are mainly re-exported after manufacture. The important point to remember is that Delhi's trade and industry should be encouraged and the tax should be so adjusted that the incidence on categories of articles which are received in Delhi and re-exported is less than on those finally consumed in Delhi. Indeed, it might be considered necessary altogether to exempt articles which form the basic raw materials of industry. Further, low rates or even no tax at all should be levied on articles of necessary consumption and the levy of high rates on luxury articles might be considered."

466. With the inauguration of provincial autonomy under the Government of India Act, 1935, terminal taxes were removed from the Provincial to the Federal List and section 137 of the Act provided that terminal taxes could be levied and collected only by the Centre. A saving clause in section 143 (2) provided that terminal taxes levied prior to 1st April, 1937 might continue to be so levied but any further resort to this tax was virtually closed to local bodies. During the period the Act of 1935 was in force, very few applications for levy of terminal tax were sanctioned by the Government of India. The result was that octroi once again came into favour, an additional reason being that it provided an expanding source of income, whereas terminal tax was static in character.

467. The constitution of India carries the position one step further by including the carriage of goods and passengers by air in the Union List. Entry 89 of the Union list of subjects reads as follows :

"Terminal taxes on goods or passengers carried by railway, sea or air".

It will be seen that taxes on goods or passengers carried by road are not covered by this entry ; such taxes will continue to be within the jurisdiction of the States. However, this entry does not debar the levy of tax on pilgrims travelling by road. Pilgrim taxes will be dealt with in a separate chapter. The remarks in this chapter relate only to taxes on goods and not on passengers.

Article 277 of the Constitution contains a saving clause that any taxes which were being levied immediately before the commencement of the Constitution, namely, January 26, 1950, by any municipality, district board or other local authority may continue to be so levied notwithstanding the fact that those taxes are mentioned in the Union List, until provision to the contrary is made by Parliament by law.

468. In relation to certain municipalities, which were to be raised to the status of Corporations and which were levying terminal tax a question recently arose whether they could continue to do so under the Constitution after the change in their status. The question was referred to the legal advisers of the Government of India, who are of the opinion that a municipality which is levying a terminal tax can continue to do so at the existing rates even after it has been raised to the status of a Municipal Corporation. Such Municipalities need not, therefore, change their system of taxation from terminal tax to octroi, merely to save themselves

from the operation of the provisions of the Constitution with regard to terminal taxes. The inclusion of a new item in the terminal tax schedule or of an increase in the existing rates, however, is not permissible.

469. Though included in the Union List this tax cannot be utilised for the purposes of Central finance, as under Article 269 a terminal tax is one of the taxes which can only be levied and collected by the Union but the proceeds of which have to be assigned to the States.

470. Prior to the enactment of the Constitution, this Committee, at its meetings held in New Delhi on the 10th and 11th June, 1949 (at which certain representatives of the Government of India in the Ministries concerned were also present), made a representation to the Government of India to persuade the Drafting Committee of the Constituent Assembly of India to remove the entry relating to terminal tax from the Union List and place it in the State List. That representation did not succeed. No reasons were given for rejecting the suggestion and it is therefore not possible to deal with them in this report.

471. While this entry was being debated in the Constituent Assembly of India, an amendment was moved by Shri R. K. Sidhva, one of our colleagues and a member of the Assembly that the entry relating to terminal tax be deleted from the Union List and put in the State List. He pointed out that terminal taxes were entirely in the region of the Provincial Governments and local bodies and they had been levying such taxes throughout the country and that it would be wrong for the Centre to take away this power. In replying to the debate, the Hon. Dr. Ambedkar, Chairman of the Drafting Committee, stated as follows :

> "This matter was debated last time and I said that although these taxes were leviable by the Centre, the proceeds of all of them would be distributable among the different Provinces. The Centre would not claim any interest. If the provinces after getting the proceeds want to pass on any part of these proceeds to the local bodies they are free to do so. It is not possible in this Constitution to make a provision for any matter of taxation that may be available to a local authority. That is a matter *inter se* between the State and the local authority, and therefore it is not possible now to alter this entry either by way of amending it or by way of transferring it to List No. II".

Shri Sidhva thereupon withdrew his amendment.

The Committee wish to point out that the question still remains where it was. No great harm to trade apparently occurred during the entire period when this power was vested in the provinces and there is no reason to apprehend such harm now when there is complete identity of interest between the Union and the State Governments. We would urge on the Government of India to reconsider the position and arrange to transfer this entry back again to the State List. It seems to us that the object which the Government of India apparently had in view in centralising terminal taxes, namely, to prevent the imposition of obnoxious levies on trade and commerce is being defeated and in place of a lighter burden is being substituted a heavier burden in the shape of octroi. We have reason to believe that State governments, if they were consulted, would prefer terminal tax in place of octroi. In States where octroi is not levied at present, we did not find much support for it, either from officials or non-officials. The Chambers of Commerce throughout the country are unanimous in their opposition to octroi, as it hampers trade and

causes unnecessary harassment. It is true there is a provision for refund of octroi on goods passing through the limits of a local body, but in actual practice no refund is obtainable until several days after the payment. This practice has in a number of places either created a new class of brokers who obtain refunds of octroi on payment of some brokerage to them or encouraged corruption amongst the octroi staff who for a consideration allow the dutiable articles to pass through without any payment of octroi.

472. Should the Government of India consider it inadivsiable to bring in a constitutional amendment so soon after the enactment of the Constitution, we would recommend that they might consider favourably any proposal which may be made to them by State Governments for the levy and collection of terminal taxes.

We fear that if even this suggestion cannot be adopted, there is no alternative to octroi, as it is financially the most productive single item of indirect taxation open to municipalities. We cannot think of any substitute in place of octroi apart from terminal tax which will be less objectionable.

473. Even though we reluctantly recommend octroi on practical grounds, we would suggest that there should be in each State a model schedule for octroi approved by the State government and that departures from this schedule should not be permitted by any subordinate authority, except with the previous approval of Government. Such a schedule should prescribe the list of articles and the maximum rates permissible therefore, in order that wide variations in the rates may be avoided. At present the schedule of rates varies from State to State and even from one local body to another within the same State in respect of the same article. We would further suggest that in framing the model schedule the rates on necessaries of life should be kept as low as possible.

474. The position at present is that octroi is in vogue in the four major States of Bambay, Uttar Pradesh, Punjab and Madhya Pradesh. In the State of Madras there is no octroi except in the Madras City, where a duty on timber is levied. The sub-joined statement gives the figures of income from octroi and terminal taxes in the four states of Bombay, Uttar Pradesh, Punjab and Madhya Pradesh :—

Year	Income from rates & taxes	Receipts from octroi and terminal tax	Percentage to total tax income
1884-85	74,22,311	60,31,731	81.2
1894-95	1,13,39,117	87,43,752	77.1
1907-08	1,50,50,340	1,01,13,739	67.1
1918-19	2,16,67,603	1,10,23,947	50.8
1925-26	3,66,47,993	1,16,11,322	31.6
1946-47	7,94,68,747	2,92,55,946	36.8

It will be seen that octroi does not form the same proportion of income from taxes which it did sixty years ago.

475. The procedure for introducing this tax or amending the existing schedules or the octroi limits is the same as prescribed for other taxes. The statutory provision in the relavent enactments of each State, in this behalf, is more or less identical and may be stated as under. The proposal must be approved and adopted by the municipal committee concerned by a resolution at a meeting of the general body specially called for the purpose. Then it must be published for inviting objections from the public. The objections, if any,

must be considered by the municipality at a meeting and then submitted along with the original proposals to the higher authority for sanction before they can be enforced. Under the Central Provinces Municipalities Act, 1922 and the Bombay Municipal Boroughs Act, 1925 prior sanction of the Provincial Government is necessary; while under Bombay District Municipal Act, 1901, Punjab Municipal Act, 1911 and the Utter Predesh Municipalities Act. 1916 the sanction of the Commissioner of the Division must be obtained The same procedure has to be followed for the abolition of or reduction in the scale and rates of octroi.

The position State-wise is as follows.

Bombay.

476. The five local self-government enactments noted in the margin in force in this State all provide for the levy of octroi. Unlike similar enactments in other States, the Bombay Local Boards Act, 1923 also provides for the levy of octroi by district boards as well (vide sec : 102-B of that Act). The Bombay Municipal Corporation levies a town duty, which during the year 1948-49 fetched an income of Rs. 62 lakhs and constituted 9.22 per cent. of its total income. The Bombay Municipal Boroughs Act, 1925, and the District Municipal Act, 1901 provide for the levy of both octroi and terminal taxes. Out of 130 municipalities in this State during the year 1944-45 as many as 74 levied octroi and 33 terminal tax. Among the district boards only the District Local Board, Ratnagiri, levies octroi. That is because of its favourable geographical position which makes the collection of the tax comparatively easy.

1. The City of Bombay Municipal Act, 1888.
2. The Bombay District Municipal Act, 1901.
3. The Bombay Local Boards Act, 1923.
4. The Bombay Municipal Boroughs Act, 1925.
5. The Bombay Provincial Municipal Corporations Act, 1950.

The subjoined table shows the growth of income from this source in this State :—

Year	Total income fro rates and taxes	Receipts from octroi and terminal tax	Percentage to total tax income
1884-85	23,13,048	14,66,079	63.3
1894-95	37,84,906	23,34,888	61.6
1907-08	45,14,969	21,20,651	46.9
1918-19	77,36,710	19,20,355	25.6
1925-26	1,53,09,561	28,21,582	18.4
1946-47	3,55,11,275	63,09,726	17.7

It will be seen from the above statement that while the income from octroi has increased 4½ times over a period of 60 years, its percentage to total tax income has fallen from 63 to 17.

477. The Government of Bombay make the following observations on octroi and terminal taxes :—

> "These two taxes, between them, account for the major portion of the total income of all the municipalities. They constitute the

largest single source of municipal income and, despite their growing disadvantages, apparently retain their position as the favourite form of local taxation. The taxes are a survival from a more primitive economy in which the regulation and taxation of the exchange of goods between different towns and between urban and rural areas was a comparatively simple matter. In present circumstances, with the multiplication of the means of transport and growth of the volume and complexity of trade, octoi and terminal taxes have become more difficult to assess and collect; transit traffic is seriously hampered and there is great scope for fraud, evasion, under-assessment and petty harassment. As the range of the taxes is gradually widened to meet the complexities of modern commerce the basis of assessment has in several cases been changed from weight to value, and for a large range of goods correct valuation is not an easy matter. The introduction of a Provincial Sales Tax on a wide range of goods has further complicated theposition.

Several municipalities in the province have been levying the octroi or terminal tax by weight instead of an ad valorem basis. In view of the recommendations made by the Municipal Finance Committee, Government had advised the municipalities to levy the duty on an ad valorem basis in all possible cases in which this practice is not being followed at present as this will give them some additional income in view of the appreciation of prices of all kinds of articles which has occurred during the last few years".

478. The Committee is in favour of the view that if octroi is levied, it should be levied, generally on an ad valorem basis but in the case of articles where that basis is not suitable, there should be no objection to the adoption of a maundage or other basis.

479. The Bombay Municipal Corporation representatives brought to our notice that the Corporation was losing annually nearly Rs. 15 lakhs, because town duty was not paid on foodgrains imported by the Government of India, on the strength of the provision contained in section 194 of the City of Bombay Municipal Act, 1888. The section provides that "no town duty shall be leviable on any article, which at the time of its importation is certified by an officer, empowered by the Government concerned in this behalf, to be the property of the Crown". It was submitted by the witnesses that the operation of the exemption should be restricted to Government stores required for the pusposes of the State and should not include commodities handled as part of a State trading enterprise. The position in this regard is different under the Bombay Municipal Boroughs Acts, 1925 and the Bombay District Municipal Act, 1901. Proviso (a) to section 73 of the Bombay Municipal Boroughs Act says that "no tax.....other than a special sanitary cess, a drainage tax or a water rate, shall, without the express consent of the Crown, be leviable in respect of any building ..... or of any vehicle, animal or other property, belonging to His Majesty and *used solely for public purposes and not used or intended to be used for purposes of profit*; and proviso to section 59 of the Bombay District Municipal Act is in similar terms. But section 194 of the City of Bombay Municipal Act does not exclude from the exemption articles and other property of the State used for purposes of profit. We see no justification for this. All public utility and commercial undertakings of Government should be treated, so far as local taxation is concerned, in the same manner as if they were conducted by private enterprise. If they are to be exempted from local taxation, the Government concerned should make a contribution in lieu of such taxation. In view of Article 285 of the

Constitution it will now, we presume, be not open to the State Legislature to bring section 194 of the City of Bombay Municipal Act into line with the corresponding provisions of the Bombay Municipal Boroughs Act and the Bombay District Municipal Act. For Art. 285 says "The property of the Union shall, save in so far as *Parliament may by law otherwise provide, be exempt from all taxes imposed* by a State or by any authority within a State". We feel that this provision in the Constitution is unfair to local bodies as it deprives them of a part of their legitimate income. As state enterprise increases, the extent of this loss to local bodies will become greater. We, therefore, recommed to Government that Parliament might be moved as soon as possible, to pass a law providing for local taxation of State property used in connection with State trading or running of public utility concerns.

480. During the course of evidence in Bombay, it was brought to our notice that postal parcels received within municipal limits escape payment of octroi duties, because the Postal Department does not give the municipalities the necessary facilities. In this manner, parcels containing valuable articles like silks, gold, silver, jewellery, etc., on which a good amount of octroi can be collected, escape paymont. The municipal authorities suggest that the Postal Department should give them a list of the persons who receive postal parcels so that they can recover the duty from them. We enquired whether there was any similar complaint in respect of railway parcels but we were told that in respect of railway parcels octroi was regularly collected.

481. We feel that the agency of the post office should not be used as a means of evading legitimate municipal dues and that the post office should render every assistance to the municipalities consistently with the discharge of its responsibility in the matter of safe delivery of parcels.

482. We referred this point to the Postal Department and give their reply below :—

> "The question of allowing facilities to municipalities and local authorities for levy of octroi duties on goods passing through the post has been examined several times in datail and so far no radical change in the existing procedure has been considered to be necessary. The existing proceduro is to deliver the postal parcels to the addresses without informing the municipal authorities. Thus parcels passsing through the post are not subject to octroi duties. The general policy of Government so for has been not to supply any such information to municipalities.
>
> 2. Recently, however, on receipt of a strong representation in the matter from a State Govorument the matter has been re-examined. The most that this Department can do is to allow an officer of the Municipal Board to get from the local post office on payment a list of the parcles received for tradesmen, the idea being to subject parcels addressed to tradesmen only to octroi duty and exempt parcels received by other person from such duty. For compelling the addressees to open the parcels in the presence of municipal authorities with a view to assesment of octroi duty, the Provincial Government would have to make a rule or take power by an Act themselves. The duty of the post offices would finish after they had given particulars of the parcels to the municipal board officers. It was considered that the post office could not go beyond this as its duty to the public was to deliver the parcels as expeditiously as possible without subjecting the addresee to any inconvenience in the process.

We are of the opinion that the matter requires further examination and the action proposed in the case of trandesmen should be extended to parcels received by other persons also.

483. **Uttar Pradesh.** Section 128 of the U. P. Municipalities Act, 1916 provides for the levy of "an octroi on goods or animals brought within the municipality for consumption or use therein" as also for the levy of "a tax on goods imported into, or exported from, any municipality in which an octroi was in force on the 6th day of July 1917 or with the previous sanction of the Central Government, any other municipality". The U. P. Municipal Act thus provides of the levy of both octroi and terminal taxes. The former is in force in 46 out of 110 municipalities while the terminal tax is levied in 20 municipalities. The latter is collected through the agency of the railway administration and transmitted to the local bodies after recovering 2 to 3 per cent. collection charges. In places where terminal tax is in force there is also a countervailing terminal toll on imports by road. The State Government point out that the Government of India have held that a terminal toll is, like a terminal tax, also outside the jurisdiction of the State Government, as it is different from ordinary toll and is not mentioned in the State List. Terminal toll is levied in 19 municipalities. In some municipalities, a terminal tax is levied on the export of certain goods ; these goods are exempt from any terminal tax on import at the destination, thus avoiding double taxation. The tax is levied both on ad valorem as well as maundage basis.

The sub-joined statement shows the growth of receipts from this source in the State since the year 1884-85.

Year	Total income from rates and taxes	Receipts from octroi and terminal tax	Percentage to total tax income
1884-85	19,52,250	16,35,772	83.8
1894-95	33,97,726	27,73,166	81.6
1907-08	50,10,603	36,01,568	71.9
1918-19	66,71,875	37,43,355	56.0
1925-26	1,01,80,680	39,45,002	38.7
1946-47	2,75,10,000	1,73,00,000	62.8

The income from this source has grown from Rs. 16.35 lakhs in 1884-85 to Rs. 173 lakhs in 1946-47. Of the income of Rs. 173 lakhs in 1946-47, 110 lakhs was contributed by octroi, Rs. 44 lakhs by terminal tax and the balance by terminal tolls. According to the U. P. Government this tax is "the main source of income of the municipalities in the U. P. The declared policy of the U.P. Government was to abolish octroi, but ever since terminal tax became a Central subject this policy has been thwarted and octroi is resuming its former place of importance in local finance. House tax is more unpopular in this State than octroi."

484. **Madhya Pradesh.** Among the several taxes authorised for levy in municipal areas by sec. 66 of the Central Provinces Municipalities Act, 1922, are "an octroi on animals or goods brought within the limits of the municipality for sale, consumption or use within those limits" and "terminal tax on goods or animals imported into or exported from the limits of a municipality" subject to the condition that the terminal tax and octroi shall not be in force in any municipality at the same time". It will thus be observed that under the municipal Act the levy of both the octroi and the terminal tax is not permissible. From the Government resolution reviewing the working of municipal committees during the year 1939-40, it appears that out of 82 municipalities in the State 16 were levying octroi and 24 terminal tax.

The sub-joined table indicates the growth of income from this source, since the year 1884-85 :—

Year	Total income from rates and taxes	Receipts from octroi and terminal tax	Percentage to total tax income
1884-85	7,84,979	6,69,720	85.3
1894-95	10,28,951	7,13,042	69 3
1907-08	14,31,150	8,10,852	56.6
1918-19	23,47,437	10,02,641	42.7
1925-26	38,89,569	13,49,019	34.6
1945-46	1,01,71,951	32,18,567	31.6
1946-47	1,10,96,594	36,21,924	32.6

It will be observed that receipts from this source alone account for nearly one-third of the total income from municipal taxation. The figures further indicate that during the sixty years under review the receipts from this source increased from Rs. 6.69 lakhs in 1884-85 to Rs. 36.26 lakhs in 1946-47, thus disclosing a growth of nearly six times. The State Government have not expressed any opinion on the respective merits or demerits of octroi and terminal taxes. But from the evidence tendered it appears that the opinion generally is in favour of retaining octroi and replacing it by terminal tax whererer possible.

485. **Punjab.** Both octroi and terminal tax are levied in this State. "Alive to the defects inherent in the system of octroi" the State Government pleaded inability to "abolish it because of the universal and deep-seated popular prejudice against direct taxation and for want of a better substitute"; octroi is levied by weight as well as ad valorem. One of the standing instructions for the preparation of octroi schedules is that "Octroi should as far as possible be imposed at ad valorem rates except in the case of articles the price of which varies greatly at different times of the year." The advantages of terminal taxation as compared with octroi taxation are fully appreciated. But in view of the constitutional restrictions, it is stated that "it is not possible to sanction either the imposition of fresh terminal tax or even the revision or amendment of existing terminal tax schedules so as to increase the rates of taxation".

The income realised from octroi and terminal taxes in 1947-48 in Punjab (I) was Rs. 20,24,296 out of a total income from rates and taxes of Rs. 53,50,878 or a percentage of 37.7.

CHAPTER IX

PROFESSION TAX

I

486. A tax on professions and trades has been familiar in India from very early times. It was levied under the British Government between the years 1867 and 1886 under various Licence Acts, which, for a time, took the place of income tax. As levied at that time, it was part of the general revenues of India, but it has since been used principally by local bodies except in Assam where it is levied by the State Government.

487. **Constitutional limitations on the levy of Profession Tax.** In view of the fact that the profession tax impinges on income tax, constitutional limitations have been placed on the amount of tax which can be levied by a local body. Under the Montagu-Chelmsford Reforms, a tax on trades, professions and callings was included in the Scheduled Taxes as one of the taxes which provincial legislative councils could impose or authorise a local authority to impose for the purposes of such local authority. Accordingly, this tax was included in the list of permissible taxes in the various provincial enactments governing the constitution of local bodies, passed after the coming into force of the Government of India Act, 1919. At this time there was no constitutional limit on the amount of the tax. Taking advantage of this, several local bodies began levying profession taxes without any limit.

488. When the Government of India Act, 1935 was enacted and brought into force from 1st April, 1937, the tax on trades, callings and employments was placed in the provincial list and even then there was no limit on the amount of the tax. When an attempt was made by one province to levy such a tax on a graded basis of income, the Central Government became apprehensive as to its effect on income tax. Consequently, the Act of 1935 was amended by the British Parliament and a new section 143-A inserted therein. This section provided that the total amount payable in respect of any one person to a province or to a local authority in the province by way of taxes on professions, trades, callings and employments shall not, after the 31st March, 1939, exceed Rs. 50/- per annum. This was, however, subject to the proviso that if in the financial year ending with that date there was in force in the Acts of any province, or any local authority any such tax, the rate or the maximum rate of which exceeded Rs. 50/- per annum it could continue to be levied at the then existing rate, unless provision to the contrary was made by a law of the Indian Legislature.

489. There were at that time several local bodies in various parts of the country which were levying profession tax in excess of this limit of Rs. 50/-. They could have continued to levy it under the proviso to section 142-A, but some of them were prevented from doing so by an Act of the Indian Legislature, known as the Professions Tax Limitation Act 1941, passed in accordance with the authority conferred under the proviso to Section 142-A of the Act. Under this Act only four taxes were exempted from the annual limit of Rs. 50/- .

(1) The profession tax levied by the Calcutta Corporation.

(2) The profession tax levied by local bodies in Bengal.

(3) The tax on trades and callings carried on within municipal limits and deriving special advantages or imposing special burdens on municipal services, imposed under clause (ii) of sub-section (1) of section 128 of the United Provinces Municipalities Act, 1916.

(4) The profession tax levied by municipalities in Central Provinces and Berar.

490. The profession taxes levied by municipalities and district boards in the province of Madras, particularly, where they were a good source of income to them, were not exempted. This caused a large fall in the income of local bodies which was made good to them by the Government of Madras in the shape of a compensatory grant-in-aid of about Rs. 12 lakhs per annum.

491. A circumstances and property tax is levied in Uttar Pradesh by municipal boards under section 128 (1) (ix) of the Municipalities Act and by district boards under section 108 (b) of the District Boards Act. The term 'circumstances' has been interpreted by the Uttar Pradesh High Court as meaning financial position, which may be judged, among other things, by taking into account income from business or profession. This tax was not mentioned in any of the Legislative Lists in Schedule VII of the Government of India Act, 1935; nor is it mentioned in any list under the present Constitution. The reason for this, apparently, is that it is a composite tax, composed of two taxes quite different in nature, profession tax and praperty tax.

492. In section 128 of the U. P. Municipalities Act, there are two types of taxes on trades and callings, namely :—

(1) "a tax on trades and callings carried on within the municipal limits and deriving special advantages from, or imposing special burden on, municipal services."

This tax was exempted from the operation of the limit of Rs. 50/- by reason of having been included in the schedule to the Professions Tax Limitations Act, 1941. It is understood that this tax is levied only in respect of such specific trades as sugar refineries, brick-manufacture, tobacco and potato growing etc. The tax has generally to be regulated with reference to the cost of the service.

(2) "a tax on trades, callings and vocations including all employment remunerated by salary or fees."

This seems to be the general profession tax to be found in other provincial Acts. The type mentioned in (1) above is special to Uttar Pradesh and is not found in any other provincial enactment.

In addition to these two types of taxes on trades and callings, there is under item (ix) of section 128(1) a tax on inhabitants assessed according to their circumstances and property. Though these taxes are listed separately, sub-section (2) of seciton 128 prohibits the imposition of both the tax on circumstances and property and the type of profession tax described in (2) above, at the same time.

493. In view of the fact that the tax on circumstances and property was being assessed in Uttar Pradesh partly on the basis of income, a question arose whether the limitations regarding the tax on professions and trades imposed by section 142-A of the Government of India Act, 1935, did in any way affect the circumstances and property tax. When a reference about this was made to the Central Government they stated that the said section had no application to it. Consequently, it was being held that the municipalities and district boards that were levying the circumstances and property tax before 1st April 1937, could continue to levy it after that date without raising its pitch or incidence, whereas other boards in which the tax was not in force on March 31st, 1937, could not impose it at all. Some district boards were deriving from this tax an income per head as much as Rs. 2,000 per annum. In many cases the limit was in excess of Rs. 50/- per annum.

494. This position was altered by a full bench decision of the Allahabad High Court on 11th May, 1948. The facts of the case are briefly as follows. The District Board, Farrukhabad assessed Messrs Prag Datt & Brothers to circumstances and property tax at Rs. 379/3/- for the year 1944-45. The total estimated income of the assessees was Rs. 18,200 (Rs. 18,000 from trade and Rs. 200 from property). Against this assessment, a suit was filed in the Court of the Munsiff, who dismissed it with costs on the ground that the suit was barred by section 131 of the District Boards Act. Against this decision, an appeal was filed in the Court of the District Judge, and a new point was raised that under the Profession Tax Limitation Act of 1941 no tax in excess of Rs. 50 could be levied as profession tax. The District Judge accepted this contention and issued an injunction restraining the District Board from realising more than Rs. 50 per annum from the plaintiffs as circumstances and property tax in so for as it was assessed on the income derived from professions, trades, callings and employments.

495. In view of this decision of the High Court many local bodies in U.P. would have had to refund large sums of money which would have seriously embarassed them financially apart from their inability to impose in the future the circumstances and property tax in excess of Rs. 50 per head which they were already levying. To save them from this predicament the Governor-General promulgated an ordinance amending the Professions Tax Limitation Act and validating the imposition of the tax in the United Provinces by including it in the schedule of taxes exempted from the provisions of the Act of 1941. Under the protection thus granted, local bodies in U.P., which were levying the tax in excess of Rs. 50/- per head per annum prior to 1st April, 1937, are still continuing to do so.

496. This was the position prior to the anactment of the new Constitution. In the new Constitution also there is a money limit on the levy of procession tax. Article 276 of the Constitution is reproduced below for ready reference:

(1) Notwithstanding anything in Article 246, no law of the Legislature of a State relating to taxes for the benefit of a State or of a municipality, district board, local board or other local authority therein in respect of professions, trades, callings or employments shall be invalid on the ground that it relates to a tax on income.

(2) The total amount payable in respect of any one person to the State or to any one municipality, district board, local board or other local authority in the State by way of taxes on professions, trades, callings and employments shall not exceed two hundred and fifty rupees per annum; provided that if in the financial year immediately preceding the commencement of this Constitution there was in force in the case of any State or any such municipality, board or authority a tax on professions, trades, callings are employments the rate or the maximum rate of which exceeded two hundred and fifty rupees per annum such tax may continue to be levied until provision to the contrary is made by Parliament by law, and any law so made by Parliament may be made either generally or in relation to any specified States, municipalities, boards, or authorities.

(3) The power of the Legislature of a State to make law as aforesaid with respect to taxes on professions, trades, callings, and employments shall not be construed as limiting in any way the power of Parliament to make laws with respect to taxes on income accuring from or arising out of professions, trades, callings and employments."

It will be noticed that the old limit of Rs. 50/- has been raised to Rs. 250/-, which is undoubtedly a welcome change, and powers already exercised by local bodies in levying profession tax in excess of Rs. 250/-are not disturbed. It will b

now be for State Governments to advice local bodies to revise their schedules of profession tax so as to correspond to the limit permitted by the Constitution. It will obviously be futile for us to suggest that the limit be raised still further or be done away with entirely if the Government of India find that the State Governments are unwilling to offer such advice to local bodies or, that the local bodies are unwilling to revise their schedules of Profession tax in accordance with the higher limit now permitted under the Constitution.

II

Position in each State. The position in the major States with regard to levy of profession tax is as follows :—

497. In Madras, it is levied by all municipalities, some district boards and several panchayats. The income from this source is substantial. The maximum before the enactment of the Profession Tax Limitation Act, 1941, was Rs. 550 per annum in the case of mufassal municipalities and district boards and Rs. 700 in the case of the City of Madras. Under the Profession Tax Limitation Act, the maximum was reduced to Rs. 50 per annum. In view of the raising of the limit to Rs. 250/- the Madras Government have advised local bodies to revise their schedules up to the maximum permissible. The compensatory grant hitherto being paid will now be withdrawn.

498. In Bombay, no municipalitiy levies profession tax as such but some of them levy small taxes in the form of licence fees on specified trades and callings which are subject to municipal control. This tax is also levied by four or five district boards. The income from this source is negligible. The Government of Bombay are of the opinion that profession tax can never be a source of much income owing to the disproportionately large collection charges.

499. In Orissa, profession tax is at present levied by municipalities and panchayats in the ex-Madras areas of the State. In ex-Bihar areas, it is levied to the same extent as in Bihar, in the form of a tax on circumstances and property. The State Government have now decided to extend the levy of profession-tax to all the local bodies in the State.

500. In Uttar Pradesh, there are two taxes which are akin to profession tax :—

(1) A tax on trades, callings, etc., which is assessed on the annual income in ascending scales. This tax is levied only in 13 municipalities out of 110 and yields Rs. 1½ lakhs annually ; and

(2) A tax on circumstances and property, which is at present levied by 12 municipalities and 29 district boards. In rural aras agricultural income is exempt from taxation and the maximum rate is 4 pies in the rupee on income subject to an aggregate maximum per assessee. Districts boards are dependent on this tax to a much greater extent than municipalities. They derive an income of Rs. 12 lakhs per annum from this source.

There is no provision for the levy of a profession tax in the U. P. District Boards Act. Only certain trades and callings can be licensed. The panchayats have got powers to levy such a tax.

501. In Madhya Pradesh, profession tax is not of much importance and is not levied in all municipalities in Berar. Though there is statutory provision for the levy of such a tax by municipalities, it formed only one per cent. of the total ordinary income of municipalities in the State in 1945-46. There are now no district boards in Madhya Pradesh. In Janapadas which do the work of taluka (tahsil) boards, there is no provision for a 'haisiyat' tax, which means a tax on

the financial circumstances of an individual. This is assessed on the same lines as the profession tax.

502. In Punjab, there is no profession tax in municipalities though there is provision in the Municipal Act. There is a haisiyat tax levied by district boards on income.

503. In West Bengal, profession tax is levied in the City of Calcutta and other municipalities. A profession tax is levied in rural areas, but the income goes to District School Boards under the Primary Education Act. The Union Boards levy what is called a Union rate, which is their principal source of income and is assessed on the lines of a tax on circumstances and property subject to a maximum of Rs. 84.

504. In Bihar municipalities there is at present a tax on circumstances and property which is levied in substitution of a tax on holdings. There is no such tax in rural areas.

505. In Assam, as already stated elsewhere, the profession tax is a provincial tax and is not levied by any local body.

506. The table below gives the income of local bodies from profession tax in each State for the year ending 1946-47 :—

Statement showing the growth of income from profession tax in the various States of India

(MUNICIPALITIES)

STATES	Total Income		Income from profession tax		Percentage of income from profession tax to total municipal income	
	1925-26	1946-47	1925-26	1946-47	1925-26	1946-47
ALL INDIA (including the City Corporations of Madras and Calcutta.)	139,652,437	285,340,865	2,894,823	4,210,398	2.07	1.47
Madras (excluding Madras City.)	7,110,632	25,620,441	728,397	1,080,539	10·3	4.2
Madras City Corporation.	4,033,826	13,500,946	162,363	510,378	4	3.8
Bengal (excluding Calcutta City).	6,211,862	7,835,453	137,050	398,856	2.2	5.06
Calcutta City Corporation.	15,778,474	37,466,700	1,266,175	1,977,600	8.0	5.6
Uttar Pradesh.	10,180,680	27,510,000	429,357	360,000*	3.9	1.2
Punjab.	7,268,183	5,350,878	57,761	3,697	0.76	0.06
Madhya Pradesh.	3,889,569	11,096,594	16,118	127,602	2.0	1.1
Bihar.	...	4,463,948	...	102,776†	1.8	2.34
Orissa.	2,482,309	631,113	47.042	31,729†		4.9

* Includes figures for the tax on circumstances and property.

† These are figures of the "tax on persons" assesed on the circumstances and property of the inhabitants levied in these States in substitution of the tax on holdings.

The above statement brings out two points :—

(1) That the profession tax is not of equal importance in every state. It is only in Madras and Bengal that the percentage of income is of any importance. In all other States, the yield is more or less negligible.

(2) That in 1925-26 the percentage of income from profession tax to total tax income was much greater than the corresponding percentage in 1946-47. In 1925-26 there was no limit on the amount of tax leviable on an individual. But in 1946-47, section 142-A of the Government of India Act, 1935 and the Profession Tax Limitation Act, 1941 were in operation and local bodies, which were levying the tax at higher rates, were, with a few specified exceptions, obliged to reduce them. In view of the raising of the limit in the Constitution from Rs. 50 to Rs. 250, it is hoped that, in the next few years, even if no further raising of the money limit takes place, the yield from this tax is likely to be considerable.

III

Basis of assessment. The basis of assessment varies in different States as described below :—

507. **Madras.** The basis is income. The tax is accordingly more or less of the nature of a local income tax. Prior to the enactment of the Profession Tax Limitation Act, 1941, the rates in the Madras City Corporation were as under :—

Assessment of Companies.

Companies were assessed on the following scale :—

	Paid up capital (Lakhs of rupees)	Half-yearly tax Rs.
A	Less than one	30
B	One and more than one, but less than two	50
C	Two and more than two, but less than three	100
D	Three and more than three, but less than five	150
E	Five and more than five, but less than ten	250
F	Ten and more than ten, but less than twenty	500
G	Twenty and more than twenty	1000

Provided that any company, the head or a principal office of which is not in the city and which shows that its gross income received in or from the city in the year immediately preceding the year of taxation—

(a) has not exceeded Rupees 5,000	shall pay only 25 rupees per half-year.
(b) has exceeded Rupees 5,000 but has not exceeded Rupees 10,000	shall pay only 50 rupees per half-year.
(c) has exceeded Rupees 10,000 but has not exceeded Rupees 20,000	shall pay only 100 rupees per half-year.
(d) has exceeded Rupees 20,000	shall pay per half-year 100 rupees together with a sum calculated at the rate of 25 rupees per half-year

for every 5,000 rupees or part thereof, of gross income in excess of Rs. 20,000 subject to a maximum half-yearly tax of 1,000 rupees.

Provided further that when a company the head or a principal office of which is not in the city becomes liable to tax for the first time, it shall pay in the first year a tax of 25 rupees; but if the gross income of the company during such year is subsequently found to have exceeded 5,000 rupees, it shall pay the tax calculated in accordance with the above-mentioned scale less the initial payment of 25 rupees.

The tax on persons was on the following scale:—

	Half-Yearly	
	Maximum	Minimum
	Rs. As.	Rs. As.
Class I.		
(1) All persons holding any appointment upon a monthly salary of five thousand rupees or upwards.	500 0	350 0
(2) All other persons (exercising any profession, art or calling or transacting business) or their agents or servants in their absence.		
Class II.		
(1) All persons holding any appointment upon a monthly salary which amounts to three thousand or upwards but is less than five thousand rupees.	300 0	210 0
(2) All other persons described in class I, but not assessed under class I.		
Case III.		
(1) All persons holding any appointment upon a monthly salary which amounts to two thousand or upwards but is less than three thousand rupees.	200 0	140 0
(2) All other persons described in class I, but not assessed under class I or II.		
Class IV.		
(1) All persons holding any appiontment upon a monthly salary which amounts to one thousand or upwards but is less than two thousand rupees.	90 0	60 0
(2) All other persons described in class I, but not assessed under any of the previous classes.		

	Half-Yearly	
	Maximum	Minimum
	Rs. As.	Rs. As.
Class V.		
(1) All persons holding any appointment upon a monthly salary which amounts to 750 rupees or upwards but is less than one thousand rupees. (2) All other pesons described in class I, but not assessed under any of the previous classes.	45 0	30 0
Class VI.		
(1) All persons holding any appointment upon a monthly salary which amounts to five hundred or upwards but is less than seven hundred and fifty rupees. (2) All other persons described in class I but not assessed under any of the previous classes.	30 0	20 0
Class VII.		
(1) All persons holding any appointment upon a monthly salary which amounts to two hundred or upwards but is less than five hundred rupees. (2) All other persons described in class I but not assessed under any of the previous classes.	12 0	8 0
Class VIII.		
(1) All persons holding any appointment upon a monthly salary which amounts to one hundred or upwards but is less than two hundred rupees. (2) All other persons described in class I but not assessed under any of the previous classes.	5 0	4 0
Class IX.		
All hotel-keepers, lodging, boarding or eating or refreshment-house keepers and shop-keepers not assessed under any of the previous classes ...	1 0	0 8

The tax in district municipalities and district boards was on the following scales :—

RATES OF PROFESSION TAX TO BE LEVIED HALF-YEARLY

Class		Half-yearly income			Half-yearly tax.—1930	Half-yearly tax—1948
I	More than	21,000			275	...
II		18,000	less than	21,000	225	...
III		12,000		18,000	150	...
IV		9,000		12,000	85	...
	More than	9,600		...	...	25
V		6,000		9,000	55	...
		7,800		9,600	...	18
		6,000		7,800	...	13
VI		4,200		6,000	28	9
VII		3,000		4,200	20	6
VIII		1,800		3,000	10	3
IX		1,200		1,800	6	2
X		600		1,200	3	1
XI		300		600	1½	½
XII		150		300	½	...

With the enactment of the Professions Tax Limitation Act, the maximum limit was reduced to Rs. 50 per annum. Consequently all the above schedules had to be revised. The rates in force in respect of all local bodies are as shown below :—

Class		Half-yearly income		Maximum	Half-yearly tax
I	More than	Rs. 9,600			25 0 0
II		7,800	but not more than Rs.	9,600	18 0 0
III		6,000		7,800	13 0 0
IV		4,200		6,000	9 0 0
V		3,000		4,200	6 0 0
VI		1,800		3,000	3 0 0
VII		1,200		1,800	2 0 0
VIII		600		1,200	1 0 0
IX		300		600	0 8 0

(*Note*: Persons in receipt of incomes below Rs. 600 per half-year are not assessed to tax in the City of Madras.)

From April 1, 1950 the rates have been revised in confirmity with the enhanced limit of Rs. 250 in Article 276 of the Constitution, as shown below :—

I	more than Rs.	18,000			125 0 0
II		12,000	but not more than Rs.	18,000	100 0 0
III		9,000		12,000	75 0 0
IV		6,000		9,000	50 0 0
V		4,800		6,000	25 0 0
VI		3,000		4,800	12 0 0
VII		1,800		3,000	6 0 0
VIII		1,200		1,800	4 0 0
IX		600		1,200	2 0 0
X		300		600	1 0 0

(Note :—Persons in receipt of incomes below Rs. 600 per half year are not assessable to tax in the City of Madras).

It will be seen from the above schedule that the rates have been designed on a progressive basis. The minimum income on which the tax is assessed continues to be Rs. 600 per annum, but this class now pays twice the tax which it paid before, that is, from Re. 1 to Rs. 2 per annum and people with incomes in the higher grades pay much more than they were paying before. For the City of Madras the minimum taxable income per annum is Rs. 1,200 instead of Rs. 600 in the mufussil in view of the higher cost of living in the city.

508. **West Bengal.** Trades and professions are divided into a number of classes and are required to take out licences for carrying on their trade or profession on the payment of a fee fixed with reference to the assumed average income of the class to which they have been assigned. Schedule IV of the Bengal Municipal Act, 1932, contains four classes and the tax payable, which is also half-yearly as in Madras, varies from 4 to Rs. 400 per annum. The schedule is reproduced below :

Schedule IV.

(See sections 123, 182, 215 and 557)

Serial No.	Classes	Maximum half-yearly tax in rupees
1	Company transacting business within the municipality for profit or as a benefit society (not being a registered cooperative society) of which the paid up capital is equivalent to :—	
	(a) more than Rs. 10,00,000	200
	(b) more than Rs. 5,00,000 but not more than Rs. 10,00,000	100
	(c) more than Rs. 1,00,000 but not more than Rs. 5,00,000	50
	(d) Rs. 1,00,000 or less	20
2	Merchant, banker, (not being a registered cooperative society), money-lender, wholesale trader, owner or occupier of a market, bazzar or theatre or place of public entertainment, broker or dalal in jute, cotton, precious stones, landed property, country produce, silk or other merchandise :— whose place of business is valued under this Act, at not less than—	
	(a) Rs. 100 per mensem	50
	(b) Rs. 50 per mensem	25
	(c) Rs. 25 per mensem	12
3	Commission agent, broker not included in Serial No. 2, architect, engineer, contractor, medical practitioner, dentist, barrister, legal practitioner ;	
	(a) in respect of whose income, income-tax is payable	10
	(b) in respect of whose income, no income-tax is payable	5
4	Retail trader or shop-keeper, boarding-house keeper, hotel-keeper, lodging house keeper, tea-stall keeper and eating house keeper — whose place of business is valued under this Act at not less than	
	(a) Rs. 25 per mensem	8
	(b) Rs. 12 per mensem	2

It will be seen from the above schedule that on companies the tax is payable on the basis of paid up capital; in the case of merchant, wholesale trader, etc., it is based on the annual value of their place of business. In this respect the basis is the same as that for property tax. In the case of doctors, lawers, engineers, commission agents and contractors, etc., who really come under the category of professional persons, the basis is still different. Those who pay income tax pay only Rs. 20 per annum as profession tax, irrespective of the size of their income and those who do not pay any income tax pay Rs. 10 per annum as profestion tax. In the case of retail shop keepers, boarding house keepers, etc., the assessment is, as in the case of merchants, on the basis of the letting value of their place of business.

The Calcutta City Corporation is governed by a different Act and has more or less similar system for the assessment of profession tax, except that the tax is payable yearly and not half-yearly as in the mofussil municipalities. Schedule VI of the Calcutta Municipal Act contains 9 classes. The different classes pay annually as profession tax the amount mentioned against each in the table below :—

Class I	Rs. 500 per annum
II	Rs. 250
III	Rs. 200
IV	Rs. 100
V	Rs. 50
VI	Rs. 25
VII	Rs. 12
VIII	Rs. 4
IX	Re. 1

It will be seen that in Calcutta the maximum in respect of Class I is already higher than Rs. 250 prescribed by the Constitution. For a few trades and professions there is a fixed licence fee. For stevedores, the fee is Rs. 100, for the keeper of a liquor shop the fee is the same as for Class IV. Similarly, commercial travellors or dealers in precious stones are in Class V, whatever their status may be. Leaving aside a few such professions, the rest of the trades and professions have been thrown into certain categories and each of these categories is put into a higher or lower class according to their status, as indicated by the rental value of their business premises ; and in the case of certain professions by the income tax they pay. In class I are put companies with a registered capital of Rs. 20 lakhs or upwards ; companies with a paid up capital of Rs. 10 lakhs or more but less than Rs. 20 lakhs are in class II ; companies with a paid up capital of Rs. 1 lakh or more but less than Rs. 10 lakhs are in class III; when paid up capital is less than Rs. 1 lakh in class IV. The classification of merchants is on the basis of annual value of premises. They are in class III if the monthly value of the business premises is Rs. 1000, in class IV if it is Rs. 350, in class V if it is Rs. 100. A shopkeeper is in class IV if the monthly value of his business premises is Rs. 350, in class V if it is Rs. 100, in class VI if it is Rs. 30 in class VII if it is Rs. 15, and it is not in any of these classes in class VIII. Professional men, such as lawyers and doctors are put into two classes, in clase V if they pay an income tax of Rs. 2,000 or more and in class VI if they do not fall in class V. This follows more or less the lines of the Bengal Municipal Act. During the course of oral evidence in Calcutta, it was pointed out by some witnesses that there was much scope for an increase of income under this head, particularly in relation to professional men like doctors and lawyers.

All Union Boards in West Bengal levy what is called a Union rate, which is more or less in the nature of a tax on circumstances and property of the inhabitants within the union. Persons who are assessed to less than half an anna a month are exempt from the payment of this rate. The maximum rate payable in respect of any one person is Rs. 84 per annum.

509. **Uttar Pradesh.** In Uttar Pradesh the profession tax, levied by certain municipal boards, is assessed on the basis of the annual income of an assessee according to a prescribed scale of rates which are graded in an ascending order at certain percentages of the tax-payer's income.

510. **Punjab.** In the Punjab the profession tax is levied by district boards and municipalities on the basis of income. Trades and professions are graded on this basis and the tax payable is as follows :—

Annual income exceeding Rs. 300 but not exceeding Rs. 400	Rs. 3
exceeding Rs. 400 but not exceeding Rs. 500	Rs. 6
exceeding Rs. 500 but not exceeding Rs. 600	Rs. 9
exceeding Rs. 600 but not exceeding Rs. 800	Rs. 12
exceeding Rs. 800 but not exceeding Rs. 1000	Rs. 15
exceeding Rs. 1000 but not exceeding Rs. 1300	Rs. 20
exceeding Rs. 1300 but not exceeding Rs. 1500	Rs. 25
exceeding Rs. 1500 but not exceeding Rs. 2000	Rs. 30
exceeding Rs. 2000 but not exceeding Rs. 3000	Rs. 35
exceeding Rs. 3000 but not exceeding Rs. 4000	Rs. 45
exceeding Rs. 4000	Rs. 50

511. **Madhya Pradesh.** There is in this State a haisiyat* tax which is payable by occupiers of buildings or lands within the limits of the municipality, according to their circumstances and property. Persons are assessed to this tax on what is known as the 'unit system'. This system is quite peculiar to this State and is not to be found in any other State in India. The total amount to be raised by the tax is first determined by the State Government on an estimate submitted by the municipality through the Deputy Commissioner of the district. In making the assessment the following principles are observed :—

(a) Persons who cannot afford to pay 12 annas per year are exempted.

(b) Persons assessed in the lowest class are classed at four units each.

All persons in the assessment list are then classed at four or more units.

In determining the number of units at which each person is to be classed, regard is to be had not only to his relative tax-paying capacity but also his social position, the size of his family and the extent of his property within the municipality. The maximum tax on any one person is limited to Rs. 240/-a Year. After every person has been classed, the total number of units are added up, the approximate amount to be raised by the tax is divided by the total number of units, the quotient is the value of one unit. From this the

* (The word 'haisiyat' is a Persian word and means financial position)

assessment of each person is ascertained by multiplying the value of one unit by the number of units at which he is classed.

The Government of the State have issued a circular letter to all local bodies inviting their attention to the provisions of Art. 276 of the Constitution, under which they can increase the rate of the tax subject to a maximum of Rs. 250 per annum in respect of any one person.

Some municipalities in Berar levy what is known as the 'Bales and Boja' tax. This is a tax on persons engaged in the cotton trade. The basis of assessment is neither income nor circumstances and property. The tax is levied as follows—

For each boja of 392 lbs. of cotton ginned	Annas 4 to Annas 6
For each bale of 392 lbs. of cotton pressed	Annas 4 to Annas 6

The rates vary from place to place but the method of assessment is the same

IV

Recommendations. The above is a general survey of the position in regard to profession tax. Our recommendations as regards the future are given below :—

512. We have already suggested in a preceding paragraph that State Governments should advise local bodies within their jurisdiction, as a few have already done, that they should revise their schedules of profession tax in order to bring them into line with the new limit of Rs. 250/-permitted by the Constitution. We repeat that recommendation here. While we appreciate the improvement that will result from the raising of the money limit of the tax from Rs. 50 to Rs. 250 is much too low a limit in the present day economic conditions and high prices. As will be seen from the previous paragraphs, the State of Madras as long ago as 1922 fixed a maximum limit of Rs. 550 for profession tax in mofussil areas. In Madras City the limit was Rs. 700. Considering prices in 1922 and comparing them with what they are today, we feel that if Rs. 550 was a good maximum limit then, nothing less than double this figure will do for conditions as they prevail to-day. Similarly, in Calcutta, the money limit is already Rs, 500. Also some district boards in U. P. are realising as much as Rs. 2000 per head per annum in some cases. While we have no desire to increase the tax burden on the poorer classes, there is no reason why joint stock companies which, as managing agents in big cities, sometimes control several large industrial concerns, should be limited to paying a tax of only Rs. 250 per annum, while the burden falls more heavily on other sections of professional and business people. In view of the increasing tendency to industrialization of the country and the heavy financial demands which modern industries and large business concerns make on municipal administration, we consider that the present limit of Rs. 250 is very low and should be raised substantially. Some witnesses suggested the raising of this limit to Rs. 2,500, but we consider that a limit of Rs. 1000 would not be unreasonable. We do not think that the raising of the limit to this extent would have any effect at all on the yield of Central Taxes on income.

513. We recommend that wherever there is no provision in the Municipal or Local Board Acts for the levy of profession tax, necessary provision should be incorporated. We are, however, not in favour of the tax being made com-

pulsory in the case of all local bodies in India. It may be possible in the case of many local bodies to raise sufficient funds by the levy of tax and octroi (or terminal tax); in such cases it may not be necessary to compel the local bodies to levy a profession tax also. There should be no objection to their levying a profession tax in addition if they desire to do so. We would, however, like the State Government to have powers to compel a local body, which is not levying either house tax or octroi (or terminal tax), to levy a profession tax. We feel that three major sources of revenue should be open to local bodies, viz., (1) the house tax (2) octroi (or terminal tax) and (3) profession tax. Unless a local body is levying at least two of these taxes, it will not have sufficient funds. We would, therefore; recommend the compulsory levy of profession tax under the orders of the State Government only in cases where only one of the other two taxes, house tax or octroi (or terminal tax), is being levied.

514. As regards the basis of assessment, we feel that the basis of actual income would be the ideal one (as it is at present in Madras) but the practical difficulties in the way of the adoption of such a basis appear to us to be very great. We, therefore, recommend that local bodies should have the choice to adopt all or any of several basis according to their convenience and local conditions as at present. Where, however, income is easily ascertainable, as for example, in the case of the salaried classes, the income basis should be adopted, provided that the basis adopted for other classes secures justice between the salaried and the other classes.

515. The adoption of the income basis gives rise to the following problems:—

(1) what the agency for assessment and collection should be;

(2) whether such agency should have the power to call for accounts;

(3) whether such agency should be in a position to impose panalties for false statements of the financial position?

As regards urban areas, we are of the opinion that the assessment and collection of profession tax should be done by the municipalities themselves. We are also of the view that municipalities should not have the power to call for accounts.

So far as rural areas other than those covered by village panchayats are concerned, we think that in view of the large areas to be covered, the agency for assessment and collection should be the Revenue Department. We should particularly request State Governments to come to the assistance of local bodies in this matter. In areas where village Panchayats are constituted, we think that profession tax should be assigned to the panchayats and should be assessed and collected by them. In view of the very nature of village panchayats such as compactness of the area and knowledge of the status and financial position of one other, the question of calling for accounts and award of punishments for false statements does not arise.

CHAPTER X

LICENCE FEES

516. Licence fees are a source of considerable income to all categories of local bodies in every State. These fees are levied in order to recover the cost of supervision of certain trades and callings and for granting certain privileges which impose a special burden on the municipal services, such as the running of brick-kilns and hotels and the keeping of cattle, horses, etc..

517. **Income.** The total income of local bodies from such fees and licences in the various States in 1946-47 is given in the table below :—

Income from Licences and fees of local bodies in the various States of India.

Municipalities
1946-47.

State	Markets and slaughter houses		Other Licence fees.	
	Income	Percentage to total income	Incocme	Percentage to total income
Madras	22,66,186	6	19,08,980	.5
Bombay	11,76,014	3	2,99,157	.8
West Bengal.	1,68,057	1.5	5,54,810	4.8
Punjab.	26,447	.34	88,823	1.16
Bihar	3,08,959	3 9	3,95,865	5
Orissa	38,233	1.73	86,339	3.9
Madhya Pradesh.	6,60,355	1.73	4,35,405	2.2
Madras City.	2,57,221	1.9	1,77,025	1.3
Bombay City.	22,66,833	4	9,30,365	1.7
Calcutta	16,04,519	4.2	2,28,969	.6

Figures for U.P. and Assam are not available.

It will be observed that licence fees are of importance only in the Corporation of Calcutta and mufussil municipalities in Madras and West Bengal. Markets and slaughter houses are of importance only in Madras (municipalities) and Calcutta City.

518. While by their very nature only urban bodies are concerned with the licences, there are also a few licence fees leviable by local bodies in rural areas. The following paragraphs contain a brief resume of the law and practice relating to the levy of licence fees in each State :—

(*a*) **Madras** : In the Madras City Municipal Act, 1919, a separate chapter is devoted to "Licences and Fees". (Chapter XII of part IV). Section 278 exempts the Central and the State Governments from the necessity to take out any licences.

The following are the acts and trades and callings which require the taking out of a licence from the Corporation :—

(1) Keeping of lodging-houses, eating-houses, tea-shops, coffee-houses, cafes, restaurant or refreshment rooms ;

(2) Keeping of birds and animals ;

(3) Use of municipal landing places and cart-stands ;

(4) Keeping of private cart stands ;

(5) Removal of carcasses of animals by municipal staff ;

(6) Running of industries and factories, putting any premises to the uses specified in Schedule VI ;

(7) Use of municipal wash-houses and bath-houses ;

(8) Use of municipal slaughter houses ;

(9) Starting private slaughter-houses ;

(10) Sale of milk ;

(11) Fees collected in markets ;—

(i) for the use of or for the right to expose goods for sale in market ;

(ii) for the use of shop stalls, pens, or stands in such markets ,

(iii) on vehicles or pack-animals carrying, or on person bringing, goods for sale in such markets ;

(iv) on animals brought for sale into or sold in such market ;

(v) for licences to brokers, commission agents, weighmen and measures practising their calling in such market.

(12) Licensing of private markets ;

(13) Carrying on the trade of butcher, fishmonger or poulterer ;

(14) Use of places for the disposal of the dead.

The Corporation has got plenary power under sub-section (2) of section 365 to fix the rate of licence fees in respect of all these cases.

In the Madras District Municipalities Act 1920, the provisions regarding the levy and collection of licence fees are similar to those in the City Municipal Act, 1919. The fees are to be laid down by the Municipal Council.

(b) **Bombay :** In the City of Bombay, the licence fees that are leviable are similar to those in Madras with the addition of the following :—

(1) Hawkers

(2) Use of skill in handicraft or rendering services for purposes of gain in public place or street ;

(3) Surveyors and plumbers.

The fees are fixed by the Corporation. While there is a tax on advertisements in the City of Madras, in Bombay City advertisements and sky signs are licensed. The provisions of the City of Bombay Municipal Act. 1888, in regard to licences and fees have been incorporated in the Bombay Provincial Muninicipal Corporation Act, 1950, under which the municipal boroughs of Poona and Ahmedabad have been constituted into City Corporations.

The list of fees and licences in respect of mofussil municipalities in Bombay is not so long or exhaustive as in Bombay City or in the Madras district municipalities. The Municipal Boroughs Act, 1925 mentions the following :—

(1) Projections.

(2) Markets and slaughter houses.

(3) Dairies and cattle sheds.

(4) Lodging houses.

The District Municipal Act, however, contains a specific reference only to markets and salughter houses.

(*c*) **West Bengel.** Cases in which licences have to be taken out under the Calcutta Municipal Act are generally the same as in Pombay and Madras. In addition, the tax on trades, professions and callings and scavenging tax on certain specified trades an callings are levied and collected in the form of licence fees. Licence fees on dangerous and offensive trades, horses and cattle, sheep and goats, private markets, slughter-houses, butchers, melas, fairs and dairymen are leviable under the Bengal Municipal Act, 1932 by municipalities in West Bengal.

(*d*) **Uttar Pradesh.** The list of licences and fees under the U. P. Municipalities Act, 1916 is not so exhaustive. The licensed trades are cinemas, vehicles, slaughter houses, markets and shops.

(*e*) **Punjab.** In Punjab the licences issued and fees levied therefor by municipalities under the Punjab Municipalities Act, 1911, are on dangerous and offiensive trades, cinemas, slaughter houses, fairs, festivals, vehicles plying for hire, hotels, lodging houses and markets.

(*f*) **Bihar.** The position in Bihar under the Bihar and Orissa Municipal Act, 1922 is analogous to that in Bengal. Municipalities are empowered to issue licences and charge fees therefor in respect of dangorous and offensive trades, horses and cattle, markets and shops, slaughter houses and sale of milk and drugs.

(*g*) **Madhya Pradesh.** The list of licences and fees has, we understand, been recently enlarged and is more or less the same as in Madras.

(*h*) **Orissa.** In Orissa the position is analogous partly to that in Bihar and partly to that in Madras.

(*i*) **Assam.** Undr the Assam Municipal Act, 1923, municipalities in that state can levy fees and rents in respect of public markets, private markets, food and drugs and factories and trades.

(*j*) **Rural Boards.** There are in a few States certain fees and licences leviable by rural boards, such as district boards; local boards and panchayats. Village panchayats in Madras have been empowered to issue licences and levy fees therefor under the Madras Village Panchayats Act, 1950, in respect of markets, public halting places and cartstands, slaughter houses, industries and factories. Similary, panchayats in Bihar can levy fees in respect of markets and fairs under the Bihar Panchayat Raj Act, 1947. Janapada Sabhas in Madhya Pradesh can levy fees in respect of markets, factories and cartstands under the C. P. & Berar Local Government Act, 1948. District boards are also levying sand and quarrying fees and also derive appreciable income from markets and fairs, cattle-shows, etc., especially in the Punjab.

519. **General observations.** We are of the opinion that markets and slaughter houses should generally be self-supporting. We would refer in this connection to the observation of the Biswas Commission that "the duty was imposed on the Corporation of augmenting the income from the markets as a source, in importance potentially next only to the consolidated rate." We think that while the endeavour should be to make the markets and slaughter houses a remunerative enterprise bringing an appreciable net income to the local bodies, in no case should the investment of capital and the recurring expenditure on markets and slaughter houses be a burden on the local revenues. The State Government should issue instructions to the local bodies to this effect and from time to time see that this is done whenever the account or budget of a body or the audit report comes up for review.

520. We received evidence from representatives of both municipalities and district boards in Bengal that the municipalisation of private haats and bazars, which are at present under the control of zamindars, would result in a substantial increase in income. We would refer in this connection to a proposal which the Government of Madras are considering, namely, to vest the monopoly of opening markets henceforth in municipalities and prohibit by legislation the opening of private markets. We recommend that other State Governments should consider whether such a step would be feasible.

521. As regards licence fees, there have been quite a large number of cases in which the schedule of fees is very old. The cost of regulation and supervision of the trades and activities licensed must in many cases have increased considerably owing to rise in prices, resulting in the payment of increased salaries and dearness allowances etc. to the executive staff. We think that the scale of the various licence fees levied by municipalities should come in for a regular periodical review, at least once in three or five years.

522. So far as the fees for individual items are concerned it is not posible for us to make any recommendations. We would only recommend that the rates fixed should be adequate to cover the cost of regulation and supervision of the trade or activity licensed. In actual practice it may not be possible, as pointed out by the Commissioner of the Madras City corporation to apportion the expenditure on general administration to each individual head. But an attempt should be made to keep proforma accounts in relation to receipts and expenditure of the licensing branch and to ensure that these balance each other. Where, however, there is a separate Licence Department, as in the Calcutta City Corporation, the expenditure on that department should not entail a net charge on the general funds of the local body.

523. A licence fee, by its very nature, is different from a tax. In evidence the question whether the power to licence could be used as a power of taxation so that the proceeds could be a source of net income to the local bodies has been raised. It will be clear from the following extracts from two judgments of the Madras High Court that it would not be proper to levy licence fees as a means of taxation or source of revenue:—

> "x x x x but that a tax is not the same as a licence fee is clear from the fact that no permission has to be obtained before the tax becomes payable and the tax is not paid for such permission, whereas the licence fee is payable in respect of a permission which is granted by the Corporation x x x x x x x x".
>
> "x x x x I am satified that taxes cannot be treated as being in the same category as licence fee under the Act. x x x x x x Beasley J. has held that the fees are leviable as compensation to

the Coporation for the expenses incurred in the issue of licences and the general regulation of the trades and other occupations which are licensed and there must be some relation between expenses and the amount of fees leviable x x x x x x x x x x x x"

"x x x x the fee income must be more or less proportionate to the trouble and expense incurred by the Corporation in issuing licences and in controlling trades and other matters for which licences are issued x x x x." (Mr. Justice Phillips)

"I agree with the finding of the learned Judge on the Original Side that the power given by the Madras City Municipal Act to the council to levy licence fee cannot be used as a power of taxation x x x x."

"x x x x then we must say that as a whole the fees charged by the Corporation must not be very much in excess of what the duties cast upon them and their staff in connection with the licences cost them x x x x x x." (Mr. Justice Reilly)

(Judgement of a Division Bench of the Madras High Court in Original Side Appeal No. 71 of 1928—The Corporation of Madras *versus* Messrs. Spencer and Co., Ltd., Madras).

This distinction between a licence fee and a tax must be carefully noted. A licence fee is levied for regulatory purposes and for recouping municipal expenses incurred on such regulation. The Courts would be entitled to interfere in the case of licence fees if they are harsh or unreasonable. The plea of unreasonableness would, however, be barred in the case of taxes. If a proper scrutiny of various licence fees levied in different States is made, it would appear that some of the trades, professions, callings or occupations which are subjected to licence fees may be more suitably made the objects of a profession tax. This would enlarge this source of income to the maximum per head permissible under the Constitution. We recommend such a scrutiny and the change in the method of this imposition, wherever suitable.

CHAPTER XI

TAXATION OF RAILWAYS

524. **Difficulty of valuing railways for local taxation.** Railway property presents special features to which the ordinary principles of local taxation do not apply. Railways in India are now almost entirely owned and managed by the Central Government. Consequently the question of local taxation of railways gets involved with the question of taxation of Government property. Moreover, the property of a railway administration lies in the territory of more than one State and, for this reason, is subject to more than one set of laws governing local taxation. Not only this, but even within the same State, railway property lies within the jurisdiction of several local bodies, each of which has different classes and rates of taxation and different methods and machinery of assessment. The calculation of 'net annual value', which is the basis of local taxation, becomes a task of considerable difficulty in the case of railways. The railway undertaking is never let, it is very seldom, if at all, the subject of any contract or transaction of the nature of letting (or even of sale); and there is no other property resembling railways in such a way that it could be used as a comparative standard for estimating its value.

525. **Railways Act, 1890.** The earlier Railways Acts of 1854 and 1875 contained no provision as to the taxation of railways by local authorities, but municipal taxes were levied in many provinces before the Act of 1890 was passed. Meanwhile, guaranteed and State Railways in Bengal were specifically exempted from cesses by means of a notification issued by the Government under the Bengal Cess Act, 1880, and a similar exemption was granted in some other provinces. The Indian Railways Act, 1890 specifically dealt with the question of local taxation in section 135, which runs as follows:—

> "Notwithstanding anything to the contrary in any enactment, or in any agreement or award based on any enactment the following rules shall regulate the levy of taxes in respect of railways and from railway administrations in aid of the funds of local authorities, namely:—
>
> (1) A railway administration shall not be liable to pay any tax in aid of the funds of any local authority unless the Governor-General in Council has, by notification in the official Gazette, declared the railway administration to be liable to pay the tax.
>
> (2) While a notification of Governor-General in Council under clause (1) of this section is in force the railway administration shall be liable to pay to the local authority either the tax mentioned in the notification or, in lieu thereof, such sum, if any, as an officer appointed in this behalf by the Governor-General in Council may, having regard to all the circumstances of the case, from time to time determine to be fair and reasonable.
>
> (3) The Governor General in Council may at any time revoke or vary a notification under clause (1) of this section.
>
> (4) Nothing in this section is to be construed as debarring any railway administration from entering into a contract with any local authority for the supply of water or light, or for the scavenging of the railway premises, or, for any other service which the local authority may be rendering or prepared to render within any part of the local area under its control.

(5) "Local authority" in this section means a local authority as defined in the General Clauses Act, 1887, and includes any authority legally entitled to or entrusted with the control or management of any fund for the maintenance of watchmen or for the conservancy of a river".

526. The Indian Taxation Enquiry Committee commented on the above section in the following terms:—

"The Government can, by refusing to issue a notification under sub-section (1) to section 135, prevent the imposition of any new tax on a railway by a local body. They can, by revoking an existing notification under sub-section (3), exempt any railway area from the operation of any particular tax, or of all local taxes that are being levied. They can further, under sub-section (2), have a fair and reasonable charge substituted for any specific tax. The railway company have also power to enter into a contract with a local authority for payment for any service. What the Government of India have no power to do is to prescribe methods of determining what is fair and reasonable or to decide in cases of dispute what is a fair contract payment for a particular service....." *

527. **Enunciation of policy in 1901.** In a letter issued by the Government of India in the Public Works Department No. 20-RT dated the 7th January, 1901, they explained their intention in enacting section 135 in the following terms:—

"The subject of the Legislature was not to relieve railway administrations altogether from liability to local taxation, but to obtain control over the demands on railway administrations by municipalities and other local authorities. It is necessary to see that railway administrations are not unfairly exploited for the benefit of local authorities. But there is no reason why they should not pay for such specific services in the shape of water supply, scanvenging, etc., as may be actually rendered, nor why they should not, like other holders of property within the areas administered by the various local authorities *bear their fair share of the general taxation imposed for purposes by which they directly or indirectly benefit.*"

It will be seen that the Government of India, for the first time in clear and authoritative terms, accepted the principle that railways should be taxed not only in respect of specific services rendered to them, but also in respect of indirect services rendered by local authoritities.

528. **Declaration of Central Government's policy in 1907.** The next important step was the issue of Notification No. 9977 dated the 29th November, 1907, which runs as follows:—

"In persuance of clause (i) of section 135 of the Indian Railways Act, 1890 (IX of 1890), and in supersession of the notification of the Government of India in the Public Works Department, No. 270, dated the 12th June, 1890, and No. 136, dated 5th April, 1893 the Governor-General in Council is pleased to declare that *every railway administration in British India shall thereafter be liable to pay in respect of property within any local area, every tax which may lawfully be imposed by any local authority in aid of its funds, under any law for the time being in force.*"

This notification was even more emphatic in its terms than the previous one of 1901 and its effect was to place railway administrations upon exactly the same footing as private residents of municipal areas, in respect of liability to

*Paragraph 459, page 326 of the Report of Indian Taxation Enquiry Committee, 1925, Vol. I.

municipal taxation, subject to the special procedure provided in accordance with sub-section (2) of section 135 of the Indian Railways Acts, 1890.

529. **Change of attitude.** The issue of the notification of November 1907 caused great concern to the British Railway Companies which were then working most of the railways. They pointed out that:—

(1) where the value of property was the subject of assessment no definite principles for ascertaining the rateable value were laid down, although the question was one of great complexity, and had in fact been treated in the most diverse manner by individual municipalities, and

(2) where the value of property was not the basis of taxation, the difficulties of assessment and the uncertainty as to the amount of taxation constituted an even greater evil than the previous one.

They also objected to the appointment of a provincial government officer as arbitrator under sub-section (2) of section 135. Usually, Commissioners of Divisions were so appointed. They felt that such an officer could not be an impartial authority.

The existence of more or less self-contained railway colonies in some places further complicated the matter. In these colonies the railways provide many of the conveniences afforded by the municipalities, such as water-supply, coservancy, and in some places even roads and lighting. The railway administrations objected to have such colonies included within the municipal limits for purposes of taxation and to paying for municipal services which they did not use.

Generally speaking, the result over a series of years was that while in some cases applications for the levy of general taxation were admitted, the Government of India issued fresh notifications under section 135 only in cases where the local authority was able to convince them that some service was actually being rendered.

530. **Government of India Act, 1935 and after.** In the meantime the policy of nationalisation and state management of railways was in operation and the status of railway properties changed gradually to that of Government properties. When the Government of India Act, 1935, came into force on 1st April, 1937, further restrictions were imposed by section 144 which exempted the properties of the Central Government from rrovincial or local taxation, subject to the proviso that properties which were liable to taxation before the commencement of the Act were to continue to be so liable until a Federal Law enacted a provision to the contrary. The effect of this was that:—

(*a*) an existing tax could not be varied from what it was on 1st April, 1937;

(*b*) no enhancement was possible even if the railway premises were enlarged or the area added to; and

(*c*) the right being subject to withdrawal or modification at any moment if the Central Legislature thought fit, was of a precarious character.

531. **Railways (Local Authorities Taxation) Act, 1941.** With the enactment of the Government of India Act, 1935, no Government railway property not taxed at the time could be subjected to local taxation under a notification issued under section 135 of the Indian Railways Act, 1890. Such property could only be taxed under a Central law enacted after the coming into force of the Act of 1935. (Section 135 of the Indian Railways Act is still in force and would presumably apply to local taxation of non-Government railways even today). To provide for such taxation the Central Legislature enacted the Railways (Local Authorities Taxation) Act, 1941. Under section 3 of this Act, the liability of a railway administration for local taxes does not arise until the Central Government, by a

notification in the Official Gazette, declares a railway administration to be liable to pay a specified tax to a specifiedmunicipality. The Central Government have the power to vary or revoke any notification already in force under section 135 of the Indian Railways Act, 1890. They have also the power to oppoint an Arbitrater to decide the actual amount payable in any individual case.

So far the Act proceeds on the lines of the Act of 1890, but it goes further and, to a certain extent, revokes of the official declarations of policy of 1901 and 1907, by laying down that the amount payable by way of local taxes is to be determined *with due regard to the service to the railways* and all the relevant circumstances of the case. This is not to be found in the Act of 1890. For the first time, the principle of a definite *quid pro quo* as the *raison d'etre* of paying a local tax has been specifically emphasised and embodied in a statute on behalf of the railways.

532. The position taken today by the Ministry of Railways of the Government of India is summed up in the following communication from the Railway Board (No. F. 42/TX 17/15 dated the 5th December, 1942) :—

> ".....The Central Government cannot concede the criterion..... that the railway administration should pay municipal taxes on the same basis as any individual tax-payer for the enjoyment of the general benefits conferred by municipal authorities and not necessarily in proportion to the benefits derived by the railway administration nor do they agree that the analogy between the Provincial Governments and the Railway Administration is responsible both under section 135 (1) of the Indian Railways Act, 1890, (Act IX of 1890) and under section 3 (1) of the Railways (Local Authorities Taxation) Act, 1941 (Act XXV of 1941), the power to impose tax on railway administration vests only in the Central Government and it is therefore entirely for them to decide under what circumstances the tax would be justifiable. Their policy in this matter is generally envisaged in section 3 (2) of the Act of 1941 itself, *viz.*, that the tax will be in consideration of the services regarded and the relevant circumstances of the case."

It will be seen that the insistence is on service rendered and no liability is accepted for general taxation. In relation to services rendered, the arrangement in force in Madras, and possibly, in some other States also is roughly as follows :—

(1) *Water and drainage tax.*

- (*a*) where a railway administration derives no direct benefit—one-third of the tax.
- (*b*) where a railway administration derives only partial benefit—half of the tax.
- (*c*) where railway administration derives full benefit—full tax

(2) *Scavenging tax.*

- (*a*) where a railway administration has made efficient arrangements of its own for the daily removal and disposal of rubbish, filth, etc., from its premises—no tax.
- (*b*) where the railway administration has made efficient arrangements for removal of filth etc. but where the local authority is responsible for its final disposal—one-half of the tax.

(3) *Lighting tax.*

(*a*) where the railway administration does not take power from the local authority for lighting its premises and where the roads leading to the Railway Station are not lit by the local authority—no tax.

(*b*) where the railway administration does not take power from the local authority for lighting its premises, but the roads leading to the railway station are lit by the local authority—half the tax.

(*c*) where the railway administration takes power from the local authority for lighting its premises—full tax in addition to the charges for energy consumed.

534. The position under the present Constitution is the same as under the Government of India Act, 1935. The existing taxes may be continued but no fresh taxes or enhancement of the rate of an existing tax or the levy of taxation on a new building constructed after the coming into force of the Constitution would be permissible. The Government of India have, however, admitted increased liability due to revision of the annual value of property already subject to taxation*.

535. This question was discussed by the Committee with the representatives of the Ministry of Railways of the Government of India at the meeting held in New Delhi on the 11th/12th June, 1949. A note outlining the position taken by the Railway Board in regard to local taxation, which was submitted to the Local Self-Government Ministers' Conference in 1948, was sent to the Committee as conveying the views of the Railway Board in the matter. A copy of this note is attached as appendix (No. V) to this report. The note deals with the previous history of the question of local taxation of railway properties and in referring to the policy governing the enactment of section 135 of the Indian Railways Act, 1890 quotes the following extract from a report by Major Temple, (who was placed on special duty in 1890 to go into the whole question) as defining the policy of the Government of India on the question of local taxation of railway :—

> "To permit municipalities and local authorities to tax railway administrations only so far as to recoup themselves reasonably for the cost of services rendered to the administration; to prohibit the levy of any taxes which are not raised for services to be directly rendered; not to assess railway property on its rateable value only."

There is no reference in the note to the subsequent declarations of 1901 and 1907 of the Government of India, (which we have already quoted) in which liability for general taxation was admitted by them. A reference is also made to the recommendations of the Indian Taxation Enquiry Csmmittee, 1925 in the following terms :—

> "They (the committee) have clearly stated that in many cases, where the railway admininistrations have provided self-contained railway colonies, the local authorities are levying taxes which cannot be considered reasonable. They have also pointed out that there are cases in which municipalities attempt to include within their limits railway colonies which have been provided with the civic amenities long before

*Letter No. FIII. 45/TX 17/6., dated the 26th May, 1945 from the Secretary, Railway Board, Railway Department, Government of India, New Delhi, to the Secretary to the Government of Bengal, Public Health and Local Self-Government Department, Municipal Branch, Calcutta.

the constitution of the local authorities themselves. Therefore, they have stressed that "services rendered" should be the criterion for the payment of local taxes. They recommended that railway buildings and lands should be assessed at fixed percentages on their cost according to particular classes of buildings and properties and that permanent way and bridges should be altogether exempted."

536. It is true that so far as railway colonies are concerned the Taxation Committee dwelt on the services rendered as a point to be taken into consideration. But so far as the general question is concerned what the Todhunter Committee actually recommended for adoption was the Bombay system to which we make a reference later. The stress which is supposed to have been laid by the Todhunter Committee on 'services rendered' is not so apparent as the note in question seems to make out.

In subsequent paragraphs the note refers to section 154 of the Government of India Act, 1935 and the statutory immunity created thereunder as also to the passing of the Railway (Local Authorties Taxation) Act, 1941, in which undoubtedly stress is laid on payment for services rendered. In the concluding paragraphs it is pointed out that railways are exempt from local taxation in foreign countries and also enjoy a privileged position in the United Kingdom in which they pay only 25% of the local rates. We will deal with these points in detail later on. The question of exemption of railways from local taxation in foreign countries is dealt with below.

537. Through the courtesy of the British Information Service, New Delhi, we have been able to obtain detailed information regarding the rating of railways in Great Britain. A memorandum, specially prepared for this Committee by Mr. A.Endicott, Chief Estate and Rating Surveyor, British Railways, is attached as appendix (No. VI) to this report. It will be seen therefrom that, while it is true that railways in Great Britain pay rates to local authorities on only one-fourth of the net annual value of their properties, there is this fundamental difference that the three-fourths relief is not retained by the railways but is required to be paid into funds out of which rebates in carriage charges, etc , are given to specified classes of goods and traders. This privileged position is part of a derating scheme which applies to some other industries also and is not peculiar to railways.

538. We also tried to obtain information about the practice in this matter in other countries through the International Union of Local Authorities. We are indebted to them for the survey which they have prepared for us regarding the taxation of railway properties in certain western countries. A copy of this survey is also reproduced as appendix (No. VII) to this report. The position is summarised below :—

Canada. There are two major railway systems, the Canadian Pacific Railway which is privately owned and the Canadian National Railways, which are owned by the Federal Government. The privately owned Canadian Pacific Railway system is subject to normal municipal taxation on its buildings including stations within municipal limits. The Federal Government owned Railway, the Canadian National Railway, being Crown property, and therefore not subject to municipal taxation, under the British North America Act, pays an amount in lieu of taxes which, generally speaking, although not in all cases, is roughly equivalent to what it would be paying if it were assessed at the normal tax rate.

France. Railway property is subject to general and special local taxes. It is also subject to the land tax as it is of a revenue yielding character.

U. S. A. American railroads are owned by private enterprise and are subject to full local taxes.

Netherlands. There is no general exemption of railway property from local taxation. It depends on the local authorities whether those properties are exempt from their taxes or not. In this respect municipalities are entirely autonomous. In many cases, however, the municipalities have decreed that Government and Railway properties should be taxed.

Belgium. The properties of the National Railway Companies are free from local taxation. The same applies also to objects and personnel directly used for the construction of railways.

It will be seen from the above review that, with the exception of Belgium, the position in Western countries is in favour of local taxation of railways, rather than otherwise.

539. **Present system of assessment of railway properties.** Owing to the fact that assessment of railway properties is made by each local bodies for the portion of the railway undertaking within its jurisdiction according to its own laws and system of assessment, there is no uniformity in regard to assessment of railway properties throughout the country By way of illustration, the systems prevailing in the three cities of Madras, Bombay and Calcutta are described below :—

(1) **Madras.** Railway buildings and lands are assessed on their cost basis. The annual value is worked out at 6% of the estimated market value of the land and the estimated cost of erecting the building at the time of assessment, less a deduction for depreciation not exceeding 10% of the cost of the building. Machinery and furniture are excluded from valuation for purposes of municipal assessment,

(2) **Bombay.** Prior to 1937 railway properties were being assessed on a comparative basis, having regarding to the level of rents for simialar properties in the respective localities *e.g.* offices, workshops, residences, etc. The Indian Taxation Enquiry Committee, which examined the methods adopted by local authorities throughout India for purposes of valuation of railway properties, in 1924-25 recommended the Bombay system for general adoption. The system then in force is described in the Report of the Committee* as under :—

(1) "All buildings, such as railway stations, goods, engine, carriage and other sheds, signal boxes, godowns, etc, used for carrying on the traffic of the railway, at 6 per cent. on the cost of the buildings and land.

(2) Workshops and necessary offices connected with the working, at 6 per cent. on the cost of buildings and lands.

(3) Offices used for general administrative purposes as distinguished from offices connected with the working of stations, at the amount for which such offices might reasonably be let to the public.

(4) Residences for railway employees, including such portions of the railways as may be used for residental purposes, at the sums at which such residental quarters might reasonably be let without regard being had to the building cost or rents actually paid by the railway employees.

(5) Lands under rails and sidings, lands used for sorting, stacking or for similar purposes, at 5 per cent. on the actual value of the land at the time the rent is fixed.

This method is, however, no longer in force. From the year 1937-38 railway properties in Bombay are assessed on the profit basis. The Bombay Municipality is not satisfied with the change. It says that when profits are less, the railways

*Paragraph 466, page 331 of the Report of the Indian Taxation Enquiry Committee 1925, Volume I.

claim to be assessed on the "profit basis", and when they are more they claim to be assessed on "service basis" namely, the basis on which actual services are rendered by the Municipality as against those provided by the railway for themselves.

The Municipality points out that while during the war years the profits made by railways increased very considerably, the tax payable by the railways to the Municipality diminished in spite of an increase in the rate of general tax. For instance, the amount payable by the G. I. P. Railway upto 1936-37 when the rate of general tax was 11½%, was Rs. 5,59,853 and by the B. B. & C. I. Railway Rs. 4,58,719 per annum. But from 1944-45 to 1948-49 during which period the rate of general tax was increased to 14½%, the tax payable by the G. I. P. Railway was Rs. 3,79,963 per annum and by the B. B. & C. I. Rly Rs. 2,89,197 per annum. The municipality further points out that these amounts are fixed on the basis of awards by arbitrators appointed under the Act of 1941, against which there is no appeal nor do the arbitrators give the details of the calculation on the basis of which the amounts are arrived at.

(3) **Calcutta** Rolling stock and machinery are not assessable to local taxation. Lands, buildings and structures including bookstalls, refreshment and retiring rooms and structural parts of workshops are valued under section 127 (b) of the Calcutta Municipal Act, 1923. The present cost of these structures less depreciation and the present value of the lands are taken as the basis and 5% of this sum is taken as the annual value for the purpose of applying the consolidated rate thereon. Residential quarters let out to railway servants on rent are separately valued under section 127 (a) of the Act, *i. e.*, on the rental basis and, in that case, the fair rent at which they can be expected to let less 10% is taken as the annual value. But, if such quarters are occupied rent-free they are assessed along with other railway property under section 127(b) of the Act as set out above.

540. **British system of valuation of Railways :** In view of the fact that the Indian system of local taxation of railways was originally based on the, English system in so far as it was applicable to conditions in this country, it would be interesting to know what the British system was and what changes have been made therein from time to time to meet the peculiar conditions of railways. Prior to the enactment of the Railways (Valuation for Rating) Act, 1930, railways were valued in accordance with the Parochial Assessments Act, 1836, upon an estimate of the net annual value of each part within a parish. The net annual value was arrived at by the adoption what is known as the 'profits' principle. This principle is that a tenant would give as rent a sum equal to the receipts from the property less the expenses of earning them and less the ordinary profit which he would expect. The further problem of estimating what a tenant would pay for the portion of railway within any given parish was still more baffling. For what could a tenant would pay for a mile of trunk line, if he were precluded from making any use of the remainder of the system? But the English Courts laid down that although it was the value of the particular portion within the parish which was to be ascertained it was proper to take into account the fact of its connection with the portion outside the parish. On the other hand, the value of any portion of the undertaking outside the parish must be excluded.

541. The Royal Commission on Local Taxation, in their report dated the 28th May, 1901 made the following recommendation:-

> "The plan of making independent valuations of small sections of each railway cannot, we think, produce entirely satisfactory results and we, therefore, now propose that a Central authority should be appointed,

> whose duty it should be to value each railway as a whole and to allocate the valuation thus obtained between the various rating areas. Besides being much simpler than the existing system, this plan would we think, entail less expenditure upon valuation and appeals, by both railway companies and local authorities, and would also secure that different railways and different parts of railways should be valued on uniform lines."

The comments of the Royal Commission extracted above apply *mutatis mutandis* to the conditions prevailing in India to-day and would seem to require similar treatment.

542. This question was further examined by the Department Committee on Local Taxation in England and Wales, who, in their report dated the 3rd March, 1914, made the following unanimous recommendation :—

> "Special properties, such as railways, cannals, tramways, gas, water and electricity undertakings, whether comprised within one parish or not, should be valued as a whole and, where necessary apportioned between the various parishes concerned."

It may be pointed out here that the parochial system described above was not in force in Scotland, where the system of valuing railways as a whole and then apportioning the total value among the rating area and the parishes was in force since 1855. A similar system was in force in Ireland since before the prsent century.

Even though the principle of valuing railways as a whole was accepted it took a long time for it to be placed on the statute book.

543. The purpose of the Act of 1930 is to provide for the railway hereditaments to be valued upon which local rates could be levied. This Act is concerned with valuation only and not rating and, moreover, with the valuation of certain class of hereditament. A railway hereditament is defined in the Act as any hereditament occupied for the purpose of the undertaking of a railway company, but it does not include a dwelling house, hotel or place of public refreshment or premises so let out as to be capable of separate assessment. In relation to such premises the ordinary rules of local axation apply and not the procedure prescribed in the Act of 1930. Such premises txist also in connection with railway undertakings in India and should be treated similarly.

544. Under the Act of 1930 there are three stages in arriving at the net annual value of a railway hereditament :—

(1) The first stage is that the average net receipts of the undertaking as a whole for certain specified years are ascertained. The meaning of the term 'net receipts' is defined in the Act.

(2) Next comes the estimation of the net annual value of the railway undertaking as a whole. This is a task of some difficulty, as it means estimating the rent at which the railway hereditaments might reasonably be expected to let *as a whole* from year to year.

(3) The third stage is the apportionment of the net annual value between hetindividual hereditaments. This is done in accordance with the apportionment scheme described in section 13 of the Act.

The Act sets up a Railway Assessment Authority, which is concerned with the preparation of the Railway Valuation Roll every five years. On this authority local bodies are represented. Local authorities also have a certain right of representation and appeals against the valuation roll.

545. **The Local Government Act, 1948.** The Local Government Act 1948 repeals almost all the provisions of the Act of 1930 including those relating to the Railway Assessment Authority and prescribes the payment of certain amounts in aid of local authorities to be apportioned by the Minister of Health in accordance with certain rules.

We in India have not yet arrived at a stage when the procedure laid down in the English Local Government Act of 1948 could be adopted. Railway Valuation Rolls for at least three or four quinquennia must first be prepared, as they were in England, before the amounts to be paid by railways in aid of local authorities could de standardised.

546. **General Recommendations.** The system prevailing in India is what might be called the 'parachial system' as it prevailed in England prior to the enactment of the British Railways (Valuation for Rating) Act, 1930. We are of the opinion that until the system of local taxation of railways in this country is rationalised and railway undertakings considered as a whole it will not be possible to secure any worth while improvement in the existing position. The reluctance of the Railway Board to relax the restrictions in regard to taxation of railway by local authorities is apparently based on the apprehension that with so many taxing authorities, each applying its own system and method of assessment, the railways would be exploited for the benefit of local revenues. We are not in a position to make detailed recommendations regarding changes in the system of local taxation of railways in the country But we are satisfied that the present lack of uniformity and piecemeal valuation should go. An Act of Parliament should prescribe the principles of valuation, taxation and apportionment. If an authority like the former English Railway Assessment Authority is set up for administering these provisions it should be so constituted as to secure adequate representation of local bodies Local bodies at present have no right of appeal against the awards of arbitrators appointed by the Government of India under the Railway Acts. This right should be conferred upon them and a tribunal constituted under parliamentary authority for hearing such appeals. The liability of railways for both general and service taxes should be recognised as in the notification of 190

547. The stress now laid on payment for services rendered as a criterion for local taxation is, in our opinion, not justified The point has been gone into the great detail by two Arbitrators appointed by the Government of India in disputes as regards municipal taxation between the Bombay Municipality and the Bombay Railways. The first award is by Mr. W. R. Tennant I. C. S., dated 22nd December, 1937. The second is by Sir Sajba Rangneka dated 9th December, 1948 in connection with a second dispute between the same parties. Both the Arbitrators held that the determination of local taxation on the 'services rendered' basis is unsound. As this point is still being raised (*vide* the Railway Board's note to which reference has been made above), we consider it worth while to give relevant extracts from these :—

> Extract from Mr. Tennant's award :—
> "It has been held that, as Municipal taxation is essentially a levy for services rendered or amenities provided to the citizens, it should be possible to fix the levy on railways on the value of service actually rendered. The idea seems an attractive one, but the trouble is that there is no accurate measure of most of the service rendered. The only services are which accurate measurements are possible are the metered services such as water gas and electricity (if supplied by the Municipality). The Municipality supplies in addition roads, street lighting, hospitals, school

drains and other sanitary services and municipal improvements. None of these is capable of accurate measurement. It is true that the Railway as a corporate body does not use the municipal schools or hospitals ; but neither do private corporations such as banks, importing firms, etc., which are municipally rated for their office premises. The staffs of these corporations undoubtedly use these services but they pay taxes for them as individual householders. Moreover, a large part of the Bombay Municipal expenditure goes in improvement schemes ; and these scheme have certainly attracted population to Bombay thereby adding to the Railway traffic both passenger and goods. A progressive municipality therefore, renders a real though totally incommensurable service to the railways by providing an attractive city for residential and business purposes. On the other hand, Bombay would never have attained its present size and commercial importance had it had no railways ; but no one can say what is mutually owed by the one to the other. Moreover, the railways owe much of their traffic to the migration to the suburbs started in plague years but continued and fostered thereafter by an enlightened policy of suburban development both in the north part of the Bombay island and in the adjacent parts of Salsette. Enough, I think, has been said to show that the mutual services are real but mostly incommensurable ; and therefore the determination of local taxation on the 'services rendered' basis is an utopian idea for Bombay. It has real merit, however, in other places where railway station and tracks are not interspersed throughout the municipal area but are merely two contiguous circles intersecting only to a very slight extent, and where the municipal services are themselves scantly and of little practical use to the railways."

Extract from Sir Sajba Rengnekar's raward :—

"Under Section 61 of the Municipal Act, it is clear that the duty of the Municipality is to provide for the services mentioned in that Section, and the Section does not say in terms that it is the duty of the Municipality to render service to the owners or occupiers and other citizens in Bombay. Short of physically compelling the railway employees to go to the Municipal Hospital for instance or to send their children to a Municipal School, one cannot say that when Municipal Services are open to every one in the City of which they can take the full benefit that the railway employees do not get the full benifit of the services when they reside within the railway area. The municipality has provided drains and drainage works, public latrines, urinals, etc., water is supplied, agency for scavenging and removal and disposal of excrementations and filthy matter, refuse, etc., is provided, there is a provision for reclamation of unhealthy localities there is a provision for obnoxious vegetables etc., cemeteries and grave-yards are provided ; there is provision for registration of births and deaths, places for vaccination are provided measures are taken for preventing and spreading of dangerous diseases, there are public hospitals and dispensaries, markets and slaughter houses, there is a provision for reclaiming dangerous streets, fire-brigade is there, dangerous buildings are removed ; construction of public streets and roads and their lighting is there ; streets are named, premises are numbered ; there are Municipal Schools

and also Municipal Offices. How in the face of all this does it lie in the mouth of the Railways to say that no service are rendered to them, passes my comprehension."

548. Some apprehension is felt that on a cumulo method, such as that recommended above, the bigger local bodies would stand to lose. It is difficult without any data to say whether this apprehension is or is not justified. We only hope that such will not be the case. If our main proposal is accepted, it should be possible to safeguard the interests of the bigger local bodies by giving them respresentation on the authority which would be responsible for perparing the details underlying the scheme.

CHAPTER XII

TAXATION OF GOVERNMENT PROPERTY

549. Local taxation of railways has been dealt with in the preceding chapter. This chapter deals with the taxation of Government property other than railways.

550. Prior to the enactment of the Government of India Act, 1935, the position as regards local taxation of both Provicial and Central Government property was governed by the Acts, regulating the constitution of local bodies. The practice was not uniform. Certain Central Government properties paid local taxes and others did not. Even Provincial Government properties in some provinces were exempt from taxation, in others they paid concessional rates and in some others they paid local taxes at full rates, as in the case of private properties.

551. Section 154 of the Government of India Act, 1935 raised the problem of exemption of Government properties in a pointed form. It was worded as follows :—

> "154. Property vested in His Majesty for purposes of the Government of the Federation shall, save in so far as any Federal Law may otherwise provide, be exempt from all taxes imposed by, or by any authority within, a province or acceding State :
>
> Provided that, until any Federal Law otherwise provides, any property so vested which was immediately before the commencement of Part III of this Act liable, or treated as liable, to any such tax, shall, so long as that tax continues, continue to be liable, or to be treated as liable thereto."

552. The same position is continued in Article 285 of the Constitution of India which runs as follows :

> "(1) The property of the Union shall save in so far as Parliament may be law otherwise provide, be exampt form all taxes imposed by a State or by any authority withen a State.
>
> (2) Nothing in clause (1) shall, until Parliament by law otherwise provides, prevent any authority within a State from levying any tax on any property of the Union to which such property was immediately before the commencement of this Constitution liable, or treated as liable, so long as that tax continues to be levied in that State."

It will be noticed that, under the proviso in clause (1), Parliament may permit local taxation of Union property which is not at present paying any such tax. No amendment of the Constitution is necessary for such permission. In the case of railway property only a notification by the Government of India is enough. But in relation to non-railway property local taxation not levied at present can only be levied by an Act of Parliament. It seems desirable to put fresh taxation of non-railway Union property on the same level as of railway property.

553. During the course of the evidence taken by the Committee much dissatisfaction was expressed with the present position which, it was said, was causing heavy losses to local bodies. State Governments seem to be unanimous in supporting the view that there should be a change of policy in regard to this important matter. The Committee also discussed this question with representatives

of certain departments of the Central Government at the meeting held in New Delhi on 11th June, 1949. Stress was laid by the Central Departments on the legal position which, it was said, was not peculiar to India but prevailed in other countries also, irrespective of the fact whether the constitution was federal or unitary.

554. It has, therefose, become necessary to ascertain the position in other countries in regard to this matter. Through the courtesy of the Ministary of External Affairs, Governmet of India, much valuable information on this subject has been obtained. A memorandum prepared at the request of this Committee by the International Union of Local Authorities dealing with the position in Western countries, the United States of America and Canada is attached as an appendix to this report.

555. The information received as summarised below would indicate that the same problem which confronts India is or has been present in almost all other countries in one form or another. No uniformity of practice is discernible. Generally speaking, in most countries the property of the Central Government is not taxable. Despite statutory or customary exemptions many such countries have, however, provided for the payment of taxes or payments in lieu of taxes on their property. Some have limited their payment to certain types of Government property. The nature of the financial and Governmental interrelationships between the Central and local governments have had an important bearing upon the nature of the solution arrived at. In addition, it is understood that in Australia, New Zealand and the United States of America, the matter is under active consideration at the present time. Because fiscal and governmental relationships between the central and local governments vary widely throughout the world, the solution adopted in one country cannot be readily translated to the problems of another. This is particularly true when contrrsting a unitary State with a federal State and it is even true when contrasting one federal State with another. None the less it is worth looking at the practice of a few countries which have attempted to adjust the matter.

(a) **United Kingdom.** In the United Kingdom, Crown property is not legally subject to taxation by the local authorities, but this exemption is a mere technicality as the Central Government makes payment to the local authorities equivalent to the local rates in respect of all its real property. The procedure is worth noting in that the Treasury retains its own valuing officers who assess the property in consultation with the local authorities. An additional feature is connected with those nationalised properties which do not pay rates direct to the local authorities. Such a case is that of the National Electricity Commission. This type of national property pays an equivalent to the sum of all local taxes on all its property into central fund common to all other nationalised properties of this type and out of this fund payments are made to the local authorities on an equalization basis. Although the United Kingdom has in effect granted full taxes on its property, it has felt it necessary to retain the right to make its own assessment. This is a point which is especially worth emphasizing in relation to taxation of Central Government property in India.

(b) **United States of America.** In the United States of America, dating from a judgement of Chief Justice Marshall, it has been judicially interpreted that the property of the Federal Government of the United States is exempt from taxation by State and local governments, exempt as otherwise provided by Congress. The

United States situation in regard to Federal relationships is one which is more comparable to India than any other. However, the problem under discussion is much more complicated in that country, because of the much larger undertakings of the Federal Government in certain fields and its vast holdings in connection with its ownership of the public domain, national forests and its large housing and soil reclamation and conservation projects. Several Acts have been passed by Congress providing for payments in lieu of local taxes. In the case of strictly Governmental buildings, such as post offices and custom houses, there is no local tax whatever; but there is considerable agitation to permit the Government to make a payment to the locality in lieu of tax for municipal services. Organisations such as the Tennessee Valley authority pay, under legislative provision, a certain percentage of their revenue to local governments affected. Although the United State has made many concessions to municipalities, they are far from having achieved a comprehensive treatment of the problem.

(c) **Canada.** The legal position in regard to the liability of Federal Government property to taxation is unequivocal. Section 125 of the British North America Act reads 'No lands or property belonging to Canada or any province shall be liable to taxation." The practice, however, is more liberal than the legal position. Although protected from taxation by law, the Federal Government have made several concessions in the matter of payment in lieu of taxation where special problems have existed. The City of Ottawa, the Federal Capital, receives large sums of money on account of concentration of Federal property within its boundaries which necessitate additions to municipal services. For almost the same reasons, liberal payments have been made to the municipalities of Halifax and Esquimalt. In addition, the courts have held that taxes for water are, in effect, not taxes but service charges, and, in consequence, are payable by the Federal Government. In general it may be said that the Government has met some of the problems arising out of its 'tax exempt' position in respect of its real property by :—

(*a*) making an annual grant ;

(*b*) payment of service charges ;

(*c*) payment of local improvement charges ;

(*d*) payment of the entire cost, or a portion thereof, of roads required for its own use ;

(*e*) providing in such instances as harbours and military camps, its own services fighting, policing, water mains, etc.

(*f*) providing for payment of taxes by the lessee by standard provisions in its leases when property is let on a rental basis :

(*g*) a wide variety of adhoc deals and arrangements. While these payments have all been made on on ex-gratia basis, the Federal Government have moved away from the position of complete exemption granted to it under the British North America Act All such payments and grants have been made on individual basis and not on related principle. It is understood that the question of systematising these payments is under the consideration of the Federal Government.

(d) **Australia.** In Australia, the constitution exempts the Commonwealth from paying rates on lands owned by the Commonwealth, under section 114 of the

Commonwealth of Australia Act. Because of the numerous factories and other properties erected by Commonwealth during the War the position has been modified somewhat as follows :—

The Commonwealth has not surrendered its legal rights under the constitution. Any payments based on the principle of general rates are regarded as being strictly ex-gratia payments only. A payment as the equivalent of rates is not paid where the property is used exclusively for Commonwealth purposes, such as departmental offices, post offices etc. Payment is made for services rendered such as water, sewage, electricity and road construction. Property belonging to or occupied by the Commonwealth let on a rental basis, generally includes in the rent an amount equivalent to the rates and such rates are paid to local authorities. Leases of Commonwealth property for a period of one year or more provide that the lessee should pay the equivalent of rates ordinarily levied and failing such payments, the lessee should pay to the Commonwealth an additional rent equivalent to such rates. Where an ex-gratia payment as the equivalent of rates is proposed, the amount of such payment is determined after discussion between the Commonwealth and the rating authority having regard to :—

(1) the value of the property, improved or unimproved in accordance with the usual practice of the rating authority concerned.

(2) any services or amenities provided by the Commonwealth, such as roads, lighting, water, sewage, etc.

(3) the services to be rendered by the rating authority for the payment of that amount.

The question of the payment of rates on the property leased to the Commonwealth is governed by the terms and conditions agreed upon between the land and the Commonwealth, as the lessee.

The policy of the Australian Government would appear to be, therefore, to preserve its immunity under the Constitution, to make payments for specific charges, to make payments in connection with certain of it extra-ordinary governmental activities and to prevent its statutory immunity being used by lessees of its property to escape taxation.

(e) New Zealand. All lands vested in the Crown and actually occupied by the Crown are exempt from local body rates. In addition to minor statutory variation from this position, the government has accepted liabiility for normal local authority rates on all occupied residental properties provided by it under its housing projects. It does not accept liability for payment of rates on the land acquired for development during the period of development, but rates commence to accrue as from the date of occupation by the tenant. Houses built for and occupied by departmental officers are not rateable. On lands acquired for development, for rehabilitation and settlement of servicemen, full rates are paid during the period the lands are held by the government. On lands required for development for civilian settlement purposes, the Crown does not pay rates. With regard to all properties on which the government does not pay rates, it pays charges for services by way of water supply, electricity supply and refuse re-moval services where such are utilised. It does not, however, pay a fees for the disposal of sewage through tne common drains of the local authority. Government owned corporations such as the National Airways Corporation and the Bank of New Zealand pay full local rates. Certain government departments such as the Government Life Insurance Office and State Fire and Accident Insurance Office do not pay rates. There is a persistant demand from local authorities that all state trading undertaking should pay rates,

(f) **Denmark.** In Denmark ever since 1933, a Public Facilities Tax has been payable on all real property belonging to the Danish Government not used for agriculture, horticulture, and forestry, nor leased, and the Royal castles and places. It was recognised that a special charge should be paid on the property in question as a contribution towards the municipal expenses for the maintenance, scavening, lighting, etc., of the streets and roads. The charge is levied in the same way as ordinary municipal charges on real property but only half the rates normally levied as municipal land tax and building tax on ordinary properties of the municipality are paid on the government properties. The main feature of this arrangement would seem to be that although the Danish Government has recognised that it has a responsiblity in connection with its property in relation to the municipal financial situation, it is something less than full responsibility, to be exact, fifty per cent. of full responsibility.

(g) **Ireland.** In Ireland, property owned or occupied by the state is not legally rateable. Nevertheless, state-owned properties are valued like other similar property and the state makes an ex-gratia contribution equal to the full rates on that valuation to the local authoritiy. Where property is occupied by the State as a tenant the owner who draws the rent from the state is liable to rates calculable on the special valuation fixed at half of the rent. In such cases the state does not make a contribution towards the rates to the local authority except when the rates at the half rent are not equal to the rates on the ordinary valuation. The practice of Ireland would seem to follow closely that of the United Kingdom.

556. **Arguments against local taxation of Union Property.** The arguments generally made to support the exemption of Central Government property are :—

(1) It is impossible theoretically to conceive of any property of a person who is not represented, or whose interests are not represented in any particular organisation, to allow that organisation a right *ad infinitum* to levy any tax upon the property of such persons. It is a principle contrary to the principles of natural justice. As there is no representative of the Central Government on local bodies, they cannot be permitted to tax Central Government property.

(2) The taxing authority of a local body is derived from a law made by the local legislature, the legislature of the States. It is quite impossible for the Centre to know what particular source of taxation, which has been made over by the Constitution to the State legislature, will be transferred by such State legislature to the local authority. Consequently, not knowing what is to be the nature of the tax, what is to be the extent of the tax, it is impossible to expect the Central Government to submit itself to the authority of the local body.

(3) There is a certain amount of reciprocity in the matter which it is undesirable to disturb. State Governments are exept from Central taxation under Article 289 of the Constitution. So also are profit-making concerns of local bodies exempt from income tax in respect of income arising from the supply of a commodity or service within the jurisdictional area under section 4 (3) (iii), of the Indian Income Tax Act. Several local bodies would suffer heavily if they were deprived of the existing concession.

(4) The benefit to a municipality from the presence of Government property compensates for the added cost of municipal services. This argument is supported by several studies which have been made in the United States of America and which have shown that property tax rates in communities in which public property is concentrated are not higher than those in which it is absent.

(5) Government property is used for promoting the general welfare of the country and consequently should be exempt. For welfare reasons the municipalities exempt property of religious, educational and charitable institutions. These institutions also to some extent provide services which otherwise would have to be maintained by Government. Tax exemption in those cases is also a subsidy to the country as a whole, for the benefits from such institutions in many cases are as widespread as those from Government.

557. **Arguments in favour of local taxation of Union property.** Arguments in favour of taxation or payments in lieu of taxation in respect of federal property are based largely on the change of circumstances which has occurred during recent years. In the early years, the property involved was negligible and in the main consisted of legislative and administrative buildings. The increased activity of the Central Government during the War in recent years and particularly the adoption of a policy of nationalisation and state trading has brought with it increased property holdings by the Central Government. What is more important is that the nature of the property has altered considerably to include properties used for purposes which could be definitely considered as commercial or profit-making. As a result municipalities and others point to these revenue-producing properties which, if they were in private hands, would be taxable. It has been much easier to demonstrate a tax loss in connection with commercial enterprises operated by the Government than to make such a case in connection with legislative or administrative buildings or properties. However, even in connection with the latter municipalities have been pointing out that those, taken in conjunction with the growth in holdings of other types of property such as defence establishments, have often resulted in a heavy concentration of tax-exempt government properties within the boundaries or certain municipalities, as in New Delhi. It is argued that the existence of tax-exempt properties within the municipal boundaries throws an added burden upon the balance of tax paying property and is discriminatory in effect and when such property is unduly concentrated the resultant tax loss has serious effects on municipal financial arrangements.

558. The principle that a tax will be paid only if it is proved that a service is rendered and that the onus of proof lies on the local body concerned, is fundamentally unsound. No tax-payer can take such a position and if he went to a court of law he would lose his case. The Government alone can take it because of its statutory immunity. It is difficult to measure to a nicety the exact service rendered to each Central Government building. One could only put negatively or measure the inconvenience which would be caused by the absence of the civic amenities which are provided by the local body in the neighbourhood. We have dealt with this argument more fully in connection with taxation of railways as this plea has been advanced by railways quite frequently and has even been given statutory recognition.

559. **General Observations.** The above review serves to bring out two points :—

(1) the statutory immunity which Union Government property enjoys from local taxation is not a peculiar feature of the Indian Consitution, but is to be found practically in every country.

(2) in other countries, while the statutory immunity remains, in practice a contribution is made to local bodies by the Central Government in lieu of such taxes. Such contribution is made after taking into consideration the rate of tax at the time of making the contribution. In India this practice has not been adopted but an artificial date line has been fixed beyond which no further claim to local taxation is admitted.

Not only is new Union Government property exempt from local taxation, but existing properties pay only the rate of tax which was in force prior to April 1, 1937 and no liaility for any increase in the rate of the tax is admitted. It is held that an increase in the rate of an existing tax is tantamount to a new tax. The Federal Court decided not long ago that under Section 154 of the Government of India Act, 1935, buildings constructed by the Government of India after April 1, 1937 on requisitioned lands are also exempt from payment of municipal taxes.

560. During our investigation of this question we were necessarily led to enquire what the position of State government properties was in relation to local taxation. It seemed to us that we could not make any recommendation relating to Central Government properties without making it applicable to State government properties also. We find that the position with regard to State government porperties is not uniform. In some States there is no privilege and State government properties are treated in the same manner as private properties. But in others some classes of State Government property are either exempt from local taxation or pay a concessional rate of tax. Under the general powers which the State Government have got of exempting from local taxation any class of property, they have exempted certain classes of State Government properties. We feel that State governments must first divest themselves of any privilege that they enjoy in the matter of local taxation before they can ask the Central Government to give up its legal privileges in this matter. We, therefore, recommend that State Government properties should be subject to local taxation as they are in most of the States. Where State Government properties are not liable to local taxation under the Acts constituting local bodies, the Acts should be amended to provide for such taxation. If this liabilty is accepted, there should be no objection to an independent machinery for valuation of Government property. Such properties should either pay the tax in full or full contribution in lieu thereof.

561. Having thus cleared the ground in so far as State Government properties are concerned, we are in a better position to deal with Union Government properties, while such properties may continue to enjoy legal immunity from local taxation, the Union Government should adopt the practice of other Governments and make a contribution to local bodies in lieu of such taxes. That contribution should not be limited by any artificial date line as 1st April, 1937 under section 154 of the Government of India Act, 1935. The contribution should be calculated with reference to the rate of tax prevailing at the time of assessment and not with reference to the rate of tax on the date of coming into effect of the Constitution or any such artificial date. There may be certain classes of properties such as millitary, naval and air force establishments which may be exempted from general taxes imposed by local bodies, but even these classes should not be exempted from the payment of service taxes. All other classes of properties should be subject to both general and service taxes of local bodies, irrespective of the date on which such properties were constructed. In regard to valuation of these properties, we recommend that the procedure previling in England may be adopted *i.e.*, the valuation may be done by a special machinery constituted by the Central Government. Once the valuation is fixed, the rate of tax will be that prevailling in the locality in which the property is situated at the time of assesment.

562. We would bring out one particular point in regard to valuation of official residences. It has been represented to us that such valuation is made on the basis of the concessional rent paid by Government servants (in which the cost of land is not taken into account) and not on the basis of 'reasonable rent'

as provided in the municipal Acts. This actually results in serious losses to municipalities. We consider that in this matter also the privilege claimed may be withdrawn and the law allowed to take its course.

563. **Betterment fees on Central Government property.** Another question in connection with local taxation of Government property arises regarding the levy of betterment contribution by local bodies on the properties of the Central Government in their jurisdiction with reference to the increase in the value of such properties as a result of a town planning scheme. Betterment fees, are, in some cases, levied by Improvement Trusts in this country and also by Municipalities where they act as the Town planning authority. In law, no distinction is made with regard to liability to betterment fee between properties owned by the state and those owned by an individual. We, therefore, do not think that there is any reason to treat the property of the Central Government different from other property in this matter. Should, however, there be any constitutional or other objection to the payment of betterment charges in the form of taxes or fees, an equivalent contribution should be made in lieu of the fees as is done, for example, in Canada.

CHAPTER XIII

TAXATION OF PORT TRUST PROPERTIES

564. As in the case of property belonging to railways, the valuation of property vesting in the Port Trusts in the three cities of Madras, Bombay and Calcutta for the purposes of municipal taxation presents special features. Properties vesting in the Port Trusts comprise a bewildering variety of structures, such as wharves, docks, quay sides, the determination of the annual value of which for purposes of rating is a highly complex job. It is not possible to determine the annual rent at which such structures could reasonably be expected to let, as such holdings are never let and so no comparison with similar structures is possible. Apart from these problems, though the Port Trusts are now administered by the Central Government, the method of valuation and assessment of their properties is not uniform, owing to the fact that before commencement of the Government of India Act, 1935 the Port Trusts were administered by the provincial governments concerned and were subject to provincial legislation. This naturally led to divergences in the three cities both as regards the basis of assessment and the extent of concessional treatment, if any, to the Port trusts. In order to facilitate a proper understanding of the problems, the law and practice relating to the valuation and assessment of properties vesting in the Port Trusts of Madras; Bombay and Calcutta are explained in the following paragraphs.

565. As the Bombay and Calcutta Corporations expressed considerable dissatisfaction with the way in which the properties of the respective Post Trusts are valued and assessed and as it wa sthought desirable that there should be some uniformity in the manner of valuation of such properties to municipal taxation in all the three cities, the Committee invited the representatives of the three City Corporations and the Port Trusts to appear before them to discuss the issue. The Government of India, Ministry of Transport were also requested to depute some representatives to be present at the discussions. These representatives appeared before the Committee in September 1950 at Delhi and the recommendations that follow have been made as a result of such discussion and on the basis of written memoranda submitted by the parties concerned.

566. **Madras.** Section 102 (*c*) of the Madras City Municipal Act, 1919 provides that :

> "In the case of lands and buildings vesting in the Trustees for the Port of Madras, the property tax leviable in any year shall not exceed 4 per cent. of the gross earnings made by the Port Trust in that year."

Prior to 1919, the Port Trust did not pay any tax to the Madras Municipality. When the provision was introduced for the first time in 1919, the Port Trust did not contest the question of its liability to municipal taxation. It recognised right of the municipality to levy taxes on its properties for the performance of municipal functions. It was thought at that time desirable to evolve a simple method of assessment, which would be equitable to both parties and would, at the same time, obviate the difficulties and friction that arise in adopting the ordinary 'rental value' method of assessment to municipal property taxes. The maximum rate of 4 per cent. of the gross earnings was determined after inquiring as to what proportion, roughly, the municipal taxes paid by other ports to the municipalities concerned bore to the total collections of the ports at that time. It was ascertained that in

Rangoon and Calcutta it was about 4 per cent. and in Bombay and Karachi a smaller percentage. As the entire income of the Port Trust was derived from the goods handled in the port and as any increase in the commitments of the Port Trust would have resulted in an increase in the rates payable by the trade, it was not considered desirable to impose a heavy burden on the trade and commerce of the city by imposing a heavy municipal rate on the Port Trust. It was, therefore, considered that an upper limit of 4 per cent. of the gross earnings would not be unfair.

The Corporation of Madras has not expressed any dissatisfaction with the present system as the procedure is simple and leaves no room for dispute.

The Chairman of the Madras Port Trust is satisfied with the present simple method of assessment of the tax. He has mentioned that the present basis has the following advantages :—

(1) The gross earnings being easily ascertainable from the audited accounts of the Port Trust the calculation of the tax payable to the Corporation is simple.

(2) There is no delay or difficulty in the assessment and payment of the tax to the Corporation.

(3) Inasmuch as the tax is fixed as a percentage of the gross earnings of the Port Trust, the Corporation is enabled to share the fruits of the prosperity of the Port when its earnings are high, while in lean years, the Port Trust does not feel the tax payable by it to the Corporation as an undue burden as the amount of the tax stands automatically reduced with the decrease in the earnings of the Port Trust.

(4) As the basis of assessment is easy and specific, no dispute ever arise between the Port Trust and the Corporation.

(5) Property tax is generally levied on the basis of the annual rental value, which is the rent at which the property is reasonably expected to let. The rent is the earning of the property and the earnings of the Port Trust are thus comparable to the rental value of its property.

(6) The alternative to the existing basis of assessment which, in the case of buildings which are not ordinarily let, is the cost of construction basis, *i.e.*, the estimated market value of the land and the estimated cost of erecting the buildings at the time of assessment. This is both complicated and laborious.

(7) No quinquennial revision of the valuation or tax is necessary. No special staff for the valuation and assessment are also necessary.

567. The City Corporation as well as the Port Trust are in favour of the continuance of the existing system. In view of this and the decided advantages of this system, which far outweigh any small monetary gain which might accrue to either body by the adoption of any other system, we recommend that the existing arrangement be continued.

568. **Calcutta.** The Calcutta Municipal Act, 1923, does not contain any provision for the levy of the consolidated rate on properties vesting in the Comissioners for the Port of Calcutta, the requisite provision being incorporated in the Calcutta Port Act, 1890, (sections 59 to 68). The present position in this respect is described as follows in paragraph 50 Chapter III of Volume II, Part I, of the Report of the Corporation of Calcutta Investigation Commission :—

> **"Port Commissioners' properties.** Properties of the Commissioners of the Port of Calcutta falling within this municipality are assessed under section 59 to 68 of the Calcutta Port Act (Bengal Act III of 1890) which govern the matter. The annual value in the case of

Port Commissioners' buildings is 5 per cent. of the aggregate expenditure on construction plus the value of the land, and the amount payable by any other person. The Corporation determines the annual value, but in these cases there is no difficulty, as the figure for annual value is not an estimate, but actual cost. Usually it is done upon a return of capital cost construction submitted by the Port Commissioners. The appeal from the assessment is to the local Government. The valuation, once made, remains effective for six years, and may be revised after that period. As to tenants' buildings on the Port Commissioners' land, the method is the same as that in section 127(*b*) of the Calcutta Municipal Act, but without adding the value of the land. The valuation of these structures may be made annually but until a new valuation is made, the assessment remains in force. The rates for these buildings are paid by the Port Commissioners with a deduction of 1/10th."

The relevant sections which lay down the basis of valuation and assessment are reproduced below :—

"59. For the purposes of municipal assessment the annual value of the property vested in the Commissioners within the municipal limits of Calcutta shall be ascertained in the following way :—

(1) The aggregate expenditure incurred in the construction of all docks, wharves, quays, stages, jetties, piers and other works belonging to the Commissioners, also in the purchase of land ; also in the construction of offices, warehouse and other buildings belonging to them within the limits of Calcutta, as defined by the Calcutta Municipal Consolidation Act, 1888, shall be determined.

(2) Expenditure incurred in procuring or putting up machinery shall not be included in such aggregate expenditure.

(3) Expenditure incurred from time to time on account of repairs necessary to maintain any works or buildings in good order shall not be included in such aggregate expenditure.

(4) Expenditure for the purpose of materially adding to or improving any work or building shall be included in such aggregate expenditure.

(5) Five per cent. on the aggregate expenditure determined in the manner herein before provided shall be the annual value of the rateable property of the Commissioners within the meaning of section 122 of the Calcutta Municipal Consolidation Act, 1888.

60. The sum to be paid to the Corporation of Calcutta as the consolidated rate payable on the annual value determined as in the last preceding section provided shall be nine-tenths of the amount which would be payable by an ordinary owner occupying his own buildings and lands.

66A. (1) For the purpose of municipal assesment in cases where any land vested in the Commissoners is let out to tenants and any building or structure is erected thereon by such tenants, the annual value of such building or structure, when erected shall be five per cent. on the estimated present cost of erecting such

building or structure, less a reasonable amount to be deducted on account of depreciation, if any.

(2) The buildings and structures in each holding, as recorded in the rent register of the Commissioners, shall be separately valued and assessed.

It will be noticed that the municipal assessment is based on the cost of construction and not on the value of the land at the time of assessment, as required by section 127 (*b*) of the Municipal Act. Most of the lands now vesting in the Port Commissioners were acquired nearly a century ago, when land values were very low as commpared with present day values of land in Calcutta. Owing to this differentiation, the valuation of Port properties has been very low and the Corporation has been sustaining a big loss.

569. It was pointed out to us that this discrimination in favour of Port Trust properties should be ended. As a result of the representations made by the Corporation from time to time and in pursuance of the recommendations on the subject by the Biwas Commission, the Government of West Bengal informed the Government of India of their intention to sponsor legislation to amend the relevant sections of the Calcutta Port Act, 1890. When we invited the Corporation of Calcutta and the Calcutta Port Commissioners to send representatives to New Delhi to discuss the matter with us, the Corporation and the Port authorities entered into disscussions as a result of which an agreement has been reached between the two bodies on all the outstanding points at issue. The terms of the agreement reached on the 21st, September, 1950, are briefly as follows :—

(1) Land covered by roads, water areas of the docks, canals and railways will continue to be assessed as at present on the actual cost of acquisition.

(2) All land, except land rented to tenants, will be valued at Rs. 1,000 per cottah on the basis of the actual area.

(3) Land acquried and accreted at a future date will be assessed on the actual cost of acquisition.

(4) Land rented out to tenants will be assessed on the basis of the annual rent payable to the Commissioners.

(5) Structures and buildings erected by tenants on land vested in the Commissioners and let out to them will be assessed at 6 per cent. of the estimated present cost less a reasonable amount to be deducted on account of depreciation, if any.

(6) 5 per cent. of the annual rent from rented lands as under (4) will be deducted from the total annual assessed value of the Commissioners property to cover the annual value of improvements on rented land.

(7) All future expenditure on capital improvements on rented land will be excluded from taxation.

The agreement is expected to result in an annual increase of Rs. 11,65,344 in the amount of tax payable by the Port Commissioners. In view of the fact that both the parties have expressed satisfacation with the agreement we would suggest that it may be adopted and that steps taken to give legislative effect to its terms.

570. Another point that strikes us is that it is somewhat anamolous that provisions relating to municipal valuation and assessment should appear in the Port and not, as in Madras, in the Municipal Act. We find that in the case of

Bombay Port Trust also the position is the same. Provisions regarding municipal taxation of the Bombay Port Trust properties appear in the Bombay Port Trust Act and not in the City of Bombay Municipal Act. At the time that the Calcutta and Bombay Ports Acts were enacted, the Ports as well as the Corporations in question were the concern of the Provincial Governments. But now that the ports of Calcutta and Bombay have been removed from the jurisdiction of the State Governments and form a Central subject, the provisions relating to municipal assessment should appear in the State Acts, which can be amended by the State Legislature and not in a Central Act, the amendment of which by a State Legislature seems somewhat incongrous. We brought this point to the notice of the Ministry of Transport, who said that they would consult the Ministry of Law on the point. We accordingly do not wish to make any further comment on this matter.

571. **Bombay.** The provision regarding municipal assessment of Bombay Port Trust properties is contained in section 36 of the Bombay Port Trust Act 1879, which runs as under :—

"(1) The Board shall pay annually, on the thirtieth day of September, to the Municipal Corporation of the City of Bombay, in lieu of the general tax leviable by the said Corporation in respect of the property or some portion of the property, vested in the Board, which would otherwise be liable to be assessed to the said tax, a sum ascertained in the manner provided in sub-sections (2) and (3).

(2) The rateable value of the buildings and lands in the city vesting in the Board in respect of which the said tax would be leviable from the Board shall be fixed from time to time by the Central Government. The said value shall be fixed with a general regard to the provisions contained in the City of Bombay Municipal Act, 1888, concerning the valuation of property assessable to property taxes, at such amount as the Central Government shall deem to be fair and reasonable. Every such decision of the Central Government shall hold good for a term of five years, subject only to proportionate variation, if in the meantime the number or extent of the buildings and lands vesting in the Board materially increases or decreases.

(3) The sum to be paid annually to the Corporatin by the Board shall be nineteen-twentieths of the amount which would be payable by an ordinary owner of building or lands in the city, on account of the general tax on a rateable value of the same amount as that fixed under sub-section (2).

The assessment of the properties of the Port Trust is made under the following general heads :—

(1) Docks, wharves and railway : Assessment calculated on 'profits' basis.

(2) Buildings outside dock limits : Assessment calculated on rents actually realised.

(3) Lands temporarily occupied : Assessment calculated on rents actually realised.

(4) Lighthouses ; Assessment calculated on cost of construction.

(5) Vacant lands : Assessment calculated at 4% of the estimated value of the lands, with a rebate of 2/3rds of the general tax.

(6) Lands let on buildings leases : Leases are assessed direct.

572. So far as categories (2) to (6) are concerned there is no dispute between the Port Trust and the Corporation. The system of assessment is in accord with the principles laid down in the Municipal Act for assessment of other properties. It is only in relation to item (1), namely, docks, wharves, and railway where the assessment is made on the profits basis that there is a dispute. The dispute is not with regard to the basis but with regard to details. With the profits basis both the parties are satisfied and do not wish to make any change. They are not in favour of the adoption of the Madras system, which we suggested to them.

573. The profits basis is not mentioned in the Municipal Act. It is, as we have shown in the chapter on property tax (general), generally followed in England in relation to certain classes of property. Sir Sajba Rangnekar explained this basis in his arbitration award on the dispute between the G.I.P. and B.B. & C.I. Railways and the Bombay Municipal Corporation, 1919 :—

> "It becomes necessary, therefore, to consider first the system known as the 'profit basis'. To put it in plain words, the system known as 'profits basis' seems to be intented to be an application of the economic theory of rent, and it founded on an enquiry as to how much, the hypothetical tenant will pay for the privilege of occupying the premises and making what he can out of the undertaking he carries on there. The system, broadly speaking, is that the gross receipts of the undertaking are taken for the year of calculation ; from these are deducted the expenses of earning these receipts ; from the residue the tenant's share is ascertained—a hypothetical sum which represents what the tenant might reasonably be satisfied with, for his profits which will include interest on his capital, remuneration for his industry and compensation for risk, and the residue will be the landlord's share of the rent."

To the same effect are the observations of the court in the Kingston Union versus the Metropolitan Water Board (1926) A.C. 331.

These observations are as follows :—

> "That method may be stated thus :—
>
> From the gross receipts of the undertaking are deducted the expenses of earning those receipts, the balance representing the net receipts of the undertaking. From the net receipts so ascertained is deducted the tenant's share representing what the hypothetical tenant might reasonably be satisfied with for his profit, which includes interest on his capital, which he will have to provide, remuneration for his industry, and compensation for risk. The residue represents the rent which he would be willing to pay for the undertaking, and is the net annual value thereof."

574. The main point under dispute is as to what items should be included in gross receipts and what should be excluded. The Chairman of the Bombay Port Trust in his evidence before us said that demurrage should not be included. Demurrage, we find, forms a large item in the earning of the Port Trust. The Corporation holds that it is a normal item of receipt and should be included. We do not wish to enter into the merits of the dispute. We understand that the Central Government are already dealing with this question and no doubt they will pass appropriate orders on the point. We are only concerned with the principle involved in the point. For any system based on calculation of profits to work satisfactorily, it is necessary that the form of keeping accounts shold be

determined in a disinterested and authoritative manner by competant authority. What items are to be included and what items are to be excluded from the calculation of profits should be settled by this authority so that no disputes may arise in the future.

575. Once it is settled how the profits are to be calculated the determination of rateable value should be comparatively simple. But it is possible that even in the determination of this rateable value there may be a difference of opinion between the Port Trust and the Corporation. At present such differences are referred to the Ceneral Government, who finally decide the matter. The Corporation considers that this amounts to an assessee determinig his own assessment. We think there is some force in this contention and would suggest the constitution of a tribunal to deal with such disputes. Such a tribunal may consit of a qualified Accountant and an experienced Engineer and be presided over by a High Court Judge. The award of this tribunal should be binding on both the parties.

576. **General.** We tried to devise a uniform system of taxation of Port Trust properties. The Madras system seem to us very simple and we requested the Ministry of Transport to give us corresponding figures for the ports of Bombay and Calcutta showing the percentages which the taxes now paid form of the total earnings of the the Port Trust. A statement giving these figures is attached. It will seen that both the Bombay Corporation and the Calcutta Corporation stand to gain if the municipal tax were paid on the basis of 4% of gross earnings. In the case of Calcutta under the new agresment, the increased tax more or less amounts to 4%. As to the application of the Madras system to Bombay, we have reason to belive that the Bombay Corporation may agree if a provision were made to the effect that in case the municipal General Tax and Fire Tax are increased the percentage of gross earnings payable by the Port Trust as municipal tax could be proportianately increased. We recommend that Government may consider the feasibility of applying the Madras method to Bombay and Calcutta.

Statement showing the annual income and the amount of municipal taxes paid by the Port Trusts of Madras, Bombay and Calcutta for the years 1937-38 to 1948-49.

YEAR	MADRAS PORT TRUST		BOMBAY PORT TRUST			CALCUTTA PORT COMMISSIONERS		
	Income	Municipal Tax	Income	Municipal Tax	Percentage of municipal tax to income	Income	Municipal Tax	Percentags of municipal tax to imcome
1937-38	34,13,565	1,31,019	2,81,35,096	2,95,107	1.05	3,23,85,622	16,09,141	4.97
1938-39	35,41,643	1,55,202	2,62,79,656	2,95,412	1.10	3,16,91,899	22,48,338	7.09
1939-40	38,88,783	1,49,878	2,70,61,589	5,74,369	2.10	3,55,93,950	24,31,539	6.83
1940-41	31,09,524	1,40,913	2,95,11,048	5,74,369	1.90	3,07,89,188	17,30,165	5.62
1941-42	30,44,486	1,16,992	3,64,53,625	2,95,158	0.80	3,48,75,100	17,67,835	5.06
1942-43	19,27,027	71,520	4,23,63,035	5,63,484	1.30	2,66,74,021	17,66,379	6.62
1943-44	41,57,251	1,51,215	4,76,55,723	5,63,484	1.17	5,62,96,677	17,66,483	3.14
1944-45	95,50,188	4,32,006	4,74,65,437	17,26,674	3.60	7,03,16,448	17,71,023	2.52
1945-46	1,39,37,896	5,56,694	5,23,56,231	18,76,820	3 60	6,42,57,206	17,74,865	2.76
1946-47	1,04,01,336	4,72,224	5,23,03.578	21,77,112	4.10	5,08,26,530	17,69,131	3.48
1947-48	94,21,984	3,83,651	5,84,75,470	21,95,880	3.70	6,54,84,143	19,20,850	2.93
1948-49	1,12,88,228	4,78,445	6,77,13,520	22,14,648	3.27	7,58,60,525	20,50,464	2.71

Note:— The percentage in Madras is 4.2 (4% Property Tax and 0,2% Education Tax).

CHAPTER XIV

TAXATION OF FLOATING POPULATION

577. The speed at which urbanisation is proceeding in this country has, among other things, led to the growth of substantial suburbs and satellite townships round about important centres of trade and industry and port towns. The growth of this class of residential areas has produced in its wake problems for urban authorities. The dwellers of such localities visit the main city during the day for their work and return by night to their homes beyond the municipal limits. In this way, they derive benefit from the amenities provided by the local authority but contribute nothing towards their provision and maintenance. Then there is the seasonal labour, which migrates to industrial centres the working season and comes away during the off-season. This class of population quite often has no fixed dwelling abode on which any property tax could be chargeable. So than, while imposing a heavy strain on municipal services such as consetvancy and water supply, it also contributes nothing towards their maintenance. The urban witnesses and the municippal executives made a grievence of this state of affairs. At almost every important centre which the Committee visited the desirability of taxing these classes of the population was urged.

578. The Municipal Commissioner for the City of Bombay said that the Corporation was considering the imposition of a profession tax to make the suburban population contribute to municipal revenues. For the casual visitor who stays in a hotel he suggested a graded surcharge on the hotel bill, with an exemption limit if necessary. Shri M. Y Nurie considered that the Bombay Corporation should adopt a system of surcharge on railway tickets for every visitor to the City. The President of Ahmedabad Municipality also favoured such a method of taxing visitors.

The Calcutta Municipal Corporation authorities suggested a terminal tax on passengers of 3 pies per head or a small surcharge of annas two per week on every ration card. The Chief Executive Officer, Calcutta Corporation suggested a terminal tax on passengers coming into and going out by Howrah and Sealdah stations, just as the Howrah Bridge Commissioners and Calcutta Improvement Trust are doing. He endorses the suggestion made by the Admintrator Calcutta Corporation regarding a surcharge on ration card in the follwing words :—

> "A vast number of people, who enjoy the civic amenities provided by the Corporation escape local taxation altogether, Levying a tax on ration cards is a very easy and effective way of taxing such people and incidentally of curbing ghost ration cards. A fee of annas eight per card in advance at the time of their issue and periodically thereafter at the time of drawing rations will be easy of collection and will bring in very good revenue."

The Municipal Commissioner, Corporation of Madras also stated that certain sections of the population escaped municipal taxation altogether while enjoying the amenities provided by the municipal authorities. He suggested that every person coming to the City from outside 50 miles distance, whether by rail, boat or motor, should be taxed. The Chairman, Ootacamund Municipality, suggested a terminal tax of six pies per head to be collected through the Bus Service Company or the railway from every passenger visiting Ootacamund. Shri T. V. S. Chalapathi Rao, Member, Municipal Reform Committee Madras, was of the

view that every one residing within the municipal limits for a particular period should be made to contribute something. This witness further brought to notice that the Vijayawada Municipality had suggested that every citizen, who is the head of a family consisting of three or four members and had been residing within the municipal limits for a period of 120 days and had not paid any tax to the municipality, should be made to pay annas eight per family for half year or Re. 1/-per year.

Shri J.C. Das Gupta, retired Secretary, Howrah Municipality was in favour of a tax on persons in municipal areas who were neither house-owners nor rent payers. Realising the difficulties in the way of enforcing such a tax, the witness suggested the levy of a charge of one pice per ration card per week to be realised through the ration shops. According to this witness such a levy would bring about Rs. 4 lakhs to Howrah Municipality even after making allowance for exemptions to indigent persons and minors. Another witness Shri M. K. Ghosh (West Bengal), proposed that people not paying any tax to the local authority should, if in receipt of an income of Rs. 200 a month, contribute 2% to the municipality in the form of a tax or licence fee. He was of the opinion that by levying a tax on ration cards alone the entire floating population would not be roped in, as there existed a class of people who had no ration cards whatsoever. They came from outside and got their supplies in their own villages or mofussil towns. That is why he suggested a specific tax for such classes.

579. The Indian Taxation Enquiry Committee was of the view that "a light terminal tax on passengers may be justified in the case of a large city on the ground that as a centre of trade or amusement or of public offices many non-resident persons come in and make use of the amenities provided by the local governing body."*

580. A terminal tax on passengers in the form of pilgrim tax is in vogue in almost all the important pilgrim centres in this country. Such taxes are usually levied on the railway tickets and are collected by the railway company (except in Nasik where they are collected by the Municipality) for a small commission. They apply only to certain pilgrim centres and in many cases they can be imposed only during certain festivals. There is usually a free zone, all passengers coming from stations within the free zone being exempt from the tax. The rate is so low that it involves little hardship. On the other hand, the receipts are generally earmarked for the very necessary purpose of providing conveniences for pilgrims and taking measures to prevent the spread of epidemics.

581. Taxes on railway passengers cannot be levied without the sanction of the Government of India as they are included in the Union List of subjects. To obtain such sanction it has to be demonstrated that the towns desiring to levy them are exceptionally circumstanced and therefore justified in taxing passenger traffic. Pilgrim taxes are being levied in Bombay, Uttar Pradesh and Madhya Pradesh. In the U. P. owing to the All-India importance of several places of pilgrimage, the tax is more important.

While the Government of India have been permitting levy of passengers tax in pilgrim centres more or less freely they do not appear to favour its levy in places which are not centres of pilgrimage. Only recently they declined to entertain the proposal of the Delhi Municipality to introduce a tax on visitors to Delhi. Having recognised the principle of permitting a levy of tax on passengers where large number of visitors congregate temporarily, we cannot see why this privliege should be limited by the Government of India to places of pilgrimage alone and why it cannot be extended to important centres of trade and industry

* Paragraph 448, page 319 of the Report.

where an equally large number of visitors congregate and thereby similarly impose a heavy strain on the resources of local authorities. The only difference appears to us to be that while the former congregate for the good of the soul the latter congregate for wordly benefit.

582. We accordingly recommend that the levy of a tax on railway passengers in places like Bombay and Madras and other important centres of trade and industry may be permitted on the same lines as is done in Calcutta at present. We have in another chapter suggested the imposition of a tax on passengers by road. This will tend to equalise the conditions under which traffic by road takes place at present and not place undue handicap on transport by rail.

One of our colleagues is of the opinion that there should be small surcharge on all railway tickets, irrespective of whether the passengers go to important trading centres or to any other stations. We have in another chapter recommended that passengers by road transport should be surcharged at rates ranging from 3 pies to 12 pies according to the distance travelled. On this analogy he holds that even in the case of railway passengers a similar small surcharge should be imposed and the income therefrom should be made available to local bodies. We, however, do not agree with this view.

583. We also suggest that the State Governments might authorise municipalities to levy a tax on such visitors to important centres of trade and industry as reside in hotels. Such a tax might be levied in the form of a surcharge on the hotel bill subject to a minimum exemption limit per visitor for each visit. It is understood that in certain places on the Continent of Europe, which are generally frequented by visitors, such a tax is not uncommon.

But a tax on passengers or hotel visitors will not cover those classes of the community, who are habitually resident in these places but make no contribution to municipal taxation. It is to cover such classes, that a tax not exceeding two annas per week or eight annas a month per ration card has been suggested.

584. According to data supplied by the Ministry of Food, the number of ration cards actually issued in each State during the years 1948 and 1949 was as under :—

STATEMENT SHOWING THE NUMBER OF FOOD RATION CARDS

States	Number of ration cards issued during the year 1948		Number of ration cards issued during the year 1949	
1. Assam	71,346	(F & I)	91,354	(F & I)
2. West Bengal	950,000	(I)	925,000	(I) *
3. Bombay	5,107,865	(I)	7,744,492	(F & I)
	1,983,505	(F)	4,243,300	
4. Bihar	280,966	(F & D)	369,025	(F & I)
5. Madhya Pradesh	NIL		222,694	(F)
6. Madras	5,189,708	(F)	8,095,583	(F)
7. Orissa	21,419	(I)	24,608	(I)
8. Punjab	915,970	(F & I)	1,254,680	(F & I)
9. Uttar Pradesh	953,072	(F)	1,634,921	(F)
10. Ajmer	332,242	(F & I)	250,707	(F& I)
11. Coorg	NIL		9,907	(F & I)
12. Delhi	1,143,888	(F & I)	755,062	(F & I)
Total	16,647,976		25,621,533	

F indicates Family Ration Cards
I indicates Individual Ration Cards.
F&I indicates both Family and Individual ration cards.
* Actual number of cards *in use* must be considerably more.

The number of ration cards during the year 1949 was 256.21 lakhs. Assuming that this number has remained stationary a surcharge at the rate of Rs. 6/- per annum (or annas two per week) would produce an annual income of Rs.1537.26 lakhs.

We are, however, not in favour of such a levy, as it would increase the already high cost of living in the country and would fall heavily on the poorer section of the community. It would be regarded as something in the nature of a poll tax and thus be highly unpopular, besides falling even on those classes which are at present making their due contribution to local taxation in other ways.

CHAPTER XV

TAXATION OF MINES

585. The problems presented by the taxation of mines for local purposes are special in the sense that in the working of a mine it is not easy to distinguish between the annual and the capital value. In subjecting a mine to taxation on the basis of its annual value we are also simultaneously subjecting it to taxation on its cppital value, as the total value of the mine is diminished by the degree of the output actually raised in any particular year. This is not the case in relation to any other property subject to local taxation.

586. **Basis of assessmsnt.** There is considerable diversity at present in different states, not only in the matter of imposition of local taxation of mines but also in the basis of assessment of the taxes imposed. No special tax is levied in the Punjab, U.P. or Madras. In Assam it is leviable on the surface rent only. In Bombay a cess at the same rate as the local fund cess on agricultural land is collected by the Govērument on the rent and royalty payable on mining leases and credited to local funds. In Madhya Pradesh under section 51 of the Local Self-Government Act, a tax called coal tax on the output of coal raised is levied at the rate of nine pies per ton. This tax is a source of income to the Janapada Sabha, Chhindwara, in whose jurisdiction almost all the coal mines in the state are situated. In Bengal, Bihar and Orissa, there is a general cess on mines levied under the Cess Act and special cesses for particular objects are levied under special Acts in the coal-fields. The former cess is assessable at the rate of one anna in the rupee on the annual net profits from mines. Mines belonging to railways have been exempted from this assessment.

587. **Mining Boards.** Special cesses are levied for the benefit of Health Boasds specially established in Bengal, Bihar and Orissa within the colliery settlements for the purpose of ensuring water supply, sanitation, conservancy and housing in mining areas. For Jharia coal fields there is, in addition to the Mining Board, a Water Board, which looks after the water supply of the collieries in that area. These bodies are quite distinct from district boards, though they perform the functions which a municipality or a district board would have performed had they not been in existence. In States other than Bengal, Bihar and Orissa there are no Mining Boards and the functions of water supply, conservancy, sanitation etc. which they perform for mines in these three States are performed by the ordinary local bodies within whose jurisdiction the mines are situated. No evidence from these bodies was received in Bengal, but in Bihar evidence as to the special problem which Mining Boards have to face was tendered to us. In no nother province did we receive any evidence on the subject of local taxation of mines.

588. **Special cesses for Mining Boards.** The special cesses levied by mining Boards in Bengal, Bihar and Orissa comprise:—

(1) a tonnage cess based on the output of the three years preceeding the year of assessment, payable by the operating company; and

(2) a royalty cess payable by the landlord.

These special cesses are for services rendered and the amount collected may not exceed the cost of the services. The general cess is paid to the district board and railway collieries are exempt from it.

589. **Special laws.** Special Acts applicable to coal fields are in West Bengal the Bengal Mining Settlements Act, 1912 and in Bihar and Orissa the Bihar

and Orissa Mining Settlements Act, 1914. The two Mining Settlements Acts provide for the establishment of Boards of Health, which are financed in the manner indicated in the preceding paragraph. The Jharia Water Supply Act was passed in order to finance an elaborate water supply scheme to serve a particular colliery area. The cost of the scheme is met by a tonnage cess on the annual despatches of coal and coke from the mines at rates determined from time to time. The cess is payable by the companies working the mines. In addition to this a further cess is levied on any person who receives royalty from any mine situated within the area benefited, assessed at rates not exceeding a prescribed percentage of the royalty received. This again is a payment purely for services rendered. The sources of finance of the Jharia Water Board are distinct from those of the Jharia Mining Board.

590. **General observations.** In connection with this subject the following questions arise —

(1) whether in view of the peculiar nature of the conditions of mining areas, they should be constituted into separate districts for the purposes of local self-government and allowed to work out their own solutions of their special problems;

(2) whether the present divergence in the basis of assessment from state to state should continue;

(3) whether the rate of taxation applied to mines should not be lower than the rate for the rental value of agricultural land.

591. In regard to (1), we can express no opinion as we have to frame our recommendations on the basis of the existing structure of local bodies. We feel that it would be outside the scope of our terms of reference to suggest that separate authorities should he constituted for the purpose of local self-government in mining areas, in which case district boards will have no function to perform for these areas and no righe to levy any tax.

592. In regard to point (2), namely, the lack of uniformity in the existing basis of assessment, we find that even in foreign countries there is no uniformity in regard to the taxation of mines. In England mines are assessed on the output method—the valuation is fixed by multiplying output by a rate of royalty per unit of output. In America local assessors are left to their own devices in the matter, but the taxation of mines on the basis of output is becoming increasingly common. In our view, there is some justification for basing local taxation on the putout of mines, and we feel that, if there is no great difficulty, this basis may be adopted by States which are not doing so at present. As regards the existing rates of taxes we understand that they are working satisfactorily and we therefore do not suggest any variation.

593. Should for any reason there be difficulty in introducing the output method recommended above, we have to consider the third point, which has been raised in paragraph 475 of the Report of the Indian Taxation Committee. We find that the existing practice has remained unchanged since the Committee reported. No mining interest took up this point with us. It is true that the net profits of a mining area must be much larger than if that area had been used for purely agricultural purposes. It is for this reason that the Taxation Committee suggested a differentiation in the rate of taxation. To quote their words :—

> "Mines sometimes situated in out-of-the-way corners of a district, may pay a very large proportion of the local taxation of the whole, or again some comparatively undeveloped and sparsely peopled districts may secure, by reason of the existence of mines in them, a revenue much larger than that of their more developed neighbours."

This raises the same question as in the case of railways, namely, whether mines should or should not be subject to generall local taxation in addition to the special cesses which they already pay to the special bodies constituted for their benefit in Bengal, Bihar and Orissa. We have given reasons why we are unable to support the argument advanced for exempting railways from general local taxation or for applying a lower rate to them. We think that the same arguments apply in the case of mines. All mines, including collieries owned by railways, should be subject to the general cess levied by the distaict boards and the rate also should be the same. We have suggested that the land cess on agricultural lands in West Bengal should be doubled. If this suggestion is accepted, it would automatically follow that the general cess payable by mines in West Bengal would also be doubled. In Bihar and Orissa the rate is already doubled and we see no reason why mines in West Bengal should be subject to a lower rate of local taxation than the mines in Bihar and Orissa. Wherever a mine yields a substantial net income, it should bear its fair share of taxes either on the basis of output as in Madhya Pradesh or on the basis of special and general cesses as in West Bengal, Bihar and Orissa.

594. Though we have not specifically mentioned quarries, the local taxation of quarries should be on the same basis as for mines.

CHAPTER XVI

COLLECTION OF TAXES

595. The last all-India review of the question of collection of local taxes was made by the Simon Commission whose remarks have already been quoted in a previous chapter. The Commission stated :—

> "The most disturbing feature is the failure to collect direct taxes imposed. In Great Britian, a municipality expects to collect upto 98 or 99 per cent. of the rates imposed by it, and a drop in collection to 95 per cent. would be the subject of very close enquiry. But in municipalities in India, since the Reforms uncollected arrears have been mounting up to very large sums. This feature is referred to by almost every Provincial Government in reviewing the work of the municipalities, and it is clear that there is a great laxity in this respect."

596. The position as disclosed in the above extract has not improved, even now after 20 years, since the Simon Commission reported. This is clear from the notes submitted to us by State Governments.

(a) The Government of Bihar write as follows :—

> "The third method of augmenting municipal income with the existing sources of taxation continuing as at present is improvement of collections. During the year 1946-47 the total percentage of collection to current demand was 89. 27. The percentage cannot be regarded as satisfactory but similar percentages of collections have obtained over a long stretch of years. Collections are, generally speaking, unsatisfactory, mainly because of the unwillingness displayed by municipal commissioners to make use in the matter of collecting their taxes, of the coercive processes provided for by the law. Cases of levy of taxes by distress on failure to pay them on the due date are not very common and taxes are allowed to fall into appears without stern measures being taken for their recovery. Inspection notes recorded by inspecting officers show from time to time how collections in individual municipalities are unsatisfactory and Government on their part issue detailed instructions where necessary, to effect improvement in this respect. The position might improve slightly if, for instance, each municipality has an Executive Officer with well-defind powers in regard to the dotailed administration of the municipality, including the recovery of taxes. The Provincial Government are at present examining a thorough overhaul of the existing provisions of the Bihar and Orissa Municipal Act and it is probable that they may decide to have in the Act a provision, which does not exist at present, for the appointment by each municipality of an Executive Officer charged with specified duties and vested with defined powers under the Act. The improvement, however, which the appointment of an Executive Officer might bring about in this respect would not probably raise the income of municipalities by more than about 10% of their present income."

(b) In the Bombay State, the Annual Report on the working of the Local Audit Department for the year 1947-48 contains the following remarks :—

"In the borough municipalities of Malegaon, Kalyan and Kurla, the arrears of taxes recoverable were rather high, being 36, 33 and 32 per cent. of their total demands of taxes. In the borough municipalities of Bandra, Broach and Bijapur, the arrears were slightly over 20 per cent. In the remaining, the arrears were below 20 per cent. Godhra, Gadag and Hubli deserving special mention each having recovered all but about two per cent. of taxes. In district municipalities, however, several instances of heavy arrears were noticed. The worst case was of Indapur Municipality where nearly 90 per cent. of the taxes were not recovered. More than 40 per cent. of the taxes were in arrears in the district municipalities of Athni, Bhagpur, Bhiwandi-Nazampur, Byadgi, Jeiuri, Karwar, Nargund, Sirur, Yawal, and Yeola. Reluctance on the part of the municipalities to have recourse to the coercive measures provided in the Municipal Act mainly contributed to these heavy arrears. Better collection was noticed in the municipalities of Alandi, Bulsar, Dhanduka, Islampur, Jambusar, Khed, Satara Suburban, Taloda, Tasgaon and Vita where less than 10 per cent. of the demand remained in arrears.

Listed in Statements III and IX of Appendix III are cases of municipalities where Councillors were in arrears in payment of municipal taxes. Compared with 1945-46 no appreciable improvement in the recovery of arrears was noticed in 1946-47. The Presidents have, during the course of audits and inspections, been advised to issue special notices of demands against the defaulting Councillors immediately after the tax falls in arrears as per G.R., G.D., No. 4468/33-A dated 24th July 1941, as any failure to pay taxes within the stipulated period of 3 months would entail their disqualification as Councillors.

STATEMENT NO. III.

Municipal Boroughs whose Councillors were in arrears on 31st March 1947

Name of municipal Borough	Number of councillors who were in arrears on 31st March 1947	Total amount of arrears due from councillors on 31st March 1947			Remarks
1	2	3			4
Northern Division.		Rs.	As.	Ps.	
Bandra	7	5,952	1	0	
Kural	4	779	2	0	
Central Division.					
Ahmednagar.	1	24	0	0	Recovered during audit in 947-48.
Dhulia	1	3	5	0	
Karad.	1	26	12	0	No special notice was issued.
Lonavla.	1	48	1	0	Due for 1945-46, recovered in 1946-47 on 15th May 1946.

1	2	3			4
Malegaon	1	30	0	0	No special notice was issued.
Poona	2	419	2	0	Rs. 115-1-0 were recovered in 1946-47 on 18th October 1946.
Satara	1	26	12	0	Since recovered on 29th July 1947.
Southern Division.					
Belgaum	2	37	8	0	Since recovered.
Bijapur.	2	230	0	0	No special notice was issued.

STATEMENT NO. IX

District Municipalities and Notified Area Committees whose councillors were in arrears on 31st March, 1947.

Name of Municipality or Notified Area Committee	Number of councillors who were in arrears on 31st March, 1947	Total amount of arrears due from councillors on 31st March, 1947			Remarks
1.	2.	3.			4
Northern Division.		Rs.	As.	Ps.	
Borivil Notified Area Committee.	2	43	13	0	
Kapadwanj.	1	15	12	0	No special notice was issued.
Rander.	4	44	10	0	—do—
Sanand.	1	16	10	0	—do—
Umreth.	2	23	10	0	—do—
Central Division.					
Baramati.	4	161	0	0	Includes Rs. 128-8-0 due from a councillor as shop rent.
Dhond	6	867	5	0	
Nandurbar	2	27	5	0	
Shahada.	3	59	11	0	
Sirur.	6	290	12	0	The councillors failed to pay the taxes even though they were served notices under section 15 (2) (f) of the Act. Rs. 125 were since collected from 3 councillors on 9th May 1947, 2nd July, 1947 & 3rd July 1947.

1	2	3	4
Southern Division.			
Alibag	4	131 4 0	*
Bagalkot	2	39 13 0	%
Byadgi.	2	10 12 0	Since recovered on 15th & 17th June 1947.
Kaliyal	2	61 5 6	&
Haveri	1	4 6 0	£
Karwar	1	133 8 0	No special notice was issued.

(c) In Madras the position is satisfactory, as will be seen from the following figures taken from the note of the Government of Madras to us :—

Year	Percentage of collection to demand
1944-45	97.4
1945-46	97.5
1946-47	96.7

(d) In relation to Bengal the position of collection is generally unsatisfactory, as will appear from the following extract from the note of the Government of West Bengal to us :—

> "If assessment is low and collection unsatisfactory, there is an obvious means of augmentation of income even within the existing provisions of the Act. The position has not improved since Mr. Majumdar reviewed it in 1939-40 and the following observations abridged from paragraphs 20—35 of his report are true even today :—'It is not the actual rate of levy on which the tax revenue depends as on the effort municipal aasessors and tax collectors. The assessment of land and building values is an extremely complicated affair and unless elaborate rules are laid down for the guidance of assessors and discrimination exercised in selecting personnel, the assessment is likely to be unjust and municipal income will decrease. The panel of assessors should consist of technically the best qualified persons. Assessment proceedings are completed only when they have been reviewed and approved of by municipality. Unfortunately, the Act provides for a purely lay committee for whose ignorance of the highly complicated procedure of valuation and misplaced sympathy, municipal assesment has suffered servely. It is important that the work of review should be entrusted to a quasi judicial standing tribunal to which representatives of the local municipality should be attached as assessors. The work of collection is still more important. The percentage of total collection to total demand was 65 in 1536-37 and 64 in 1937-38. It is unusual for a local

* Dues have since been recovered from three of the councillors and the fourth councillor was disqualified for non-payment of the dues.

% Special notice was issued to one councillor only.

& No special notice was issued. Rs. 51-5-6 due from one councillor since recovered on 9th April 1947.

£ No special notice was issued. Since recovered on 4th Sept. 1947.

authority in England to collect less than 95 per cent. of the annual demand. Compared with this record the leakage of municipal tax revenue in this country is startling. In the years that have followed the publication of that report collection has not improved and assessment has actually deteriorated since advantage has not been taken of the extraordinary rise in house-rent due to inflation and immigration.

The report of the Examiner, Local Fund Accounts for 1947-48 discloses heavy accumulations of arrears in several municipaltites. Arrears of taxes were on the increase in many municipalities.

(e) The arrears of taxes in the Calcutta Corporation have been the subject of severe comment by the Calcutta Corporation Investigation Commission. In paragraph15 of their report they state that the position has been steadily deteriorating. In 1916-17 and 1917-18 the percentage of collection to assessment was 96.9 and 99.1 percent respectively. For 1946-47, the percentage was 79.29 and for 1947-48 it was as low as 76.74 per cent. The corresponding figure for the Madras Corporation is 97 per cent. for 1947-48. For the Bombay Corporation the position is not quite so satisfactory as in Madras. The percentage uncollected varies from 12 to 17, as per figures given below :—

Particulars	Total gross demand.	Total net demand (after allowing drawback and after amending and cancelling certain bills)	Collections during 1949-50.	Percentage.	Amount outstanding on 31st March 1949	Percentage.
1948-49	Rs.	Rs.	Rs.		Rs.	
1. Property taxes.	54,002,973	53,315,700	44,035,780	82.59	9,279,920	17.41
2. Wheel tax.	3,185,339	3,073,308	2,469,187	80.34	604,121	19.66
Total 48-49	57,188,339	56,389,003	46,504,967	82.47	9,884,041	17.53
1947-48	52,151,573	51,401,941	44,154,935	85.47	7,247,063	14.10
1946-47	46,667,633	49,126,683	43,180,411	87.80	5,946,472	12.10

(f) Regarding local bodies in the Punjab the Examiner Local Fund Accounts writes as follow :—

"Heavy arrears of taxes levied by local bodies accumulate mainly because of belated assessment of taxes and dues in most of the local bodies. The assessment lists are not prepared and authenticated till the fag end of the year, although under the rules these are required to be authenticated before the commencement of the year to which the taxes or dues pertain. At places assessments are made and reduced arbitrarily to the benefit of the assessees concerned, at times even below the amounts declared by the assessees themselves.

Another disquieting feature is the lack of supervision over the collecting staff and the unwillingness of the executive to take prompt and timely steps for recovery of the taxes or dues. Members invariably feel hesitant to take coercive measures admissible under the Act against the defaulting assessees. At places even the members or employees of local bodies are among the defaulters."

(g) In Madhya Pradesh also the position is not very satisfactory. The report of the Examiner Local Fund Accounts for the year 1946-47 contains the following remarks :—

> "The percentage of collections to total demand was, out of the 97 municipalities in the State in 1946-47 between 91-100 in 14 municipalities, between 81-90 in 15 mnnicipalities, between 71-80 in 16 municipalities, between 61-70 in 12 municipalities between 51-60 in 10 municipalities, between 11-50 in 5 municipalities and between 31 to 40 in 4 municipalities."

(h) District boards get the land cess collected for them through Government agency and have accordingly no such problem of collection as municipalities have. But where district boards collect taxes themselves, as the circumstances and property tax in Uttar Pradesh, they have to face the same problem of heavy arrears. The following figures taken from the "Notes for the U. P. Local Bodies Grants-in-Aid Committee" issued by the Uttar Pradesh Government (1949), will bear out this point.

District Board	*Percentage of arrears of taxes to total demand*
Ballia	58
Banaras	54.9
Garhwal	53.2
Meerut	48.53
Mirzapur	38.9
Farrukbabad	34.52
Saharanpur	35.42
Moradabad	34.23
Kanpur	31.2
Aligarh	28.84
Azamgarh	26.84
Dehra Dun	25.4

With such poor collections as above, it is not a matter for surprise that the financial condition of the district boards is bad. Before any suggestions for the levy of new taxes can be made, it is obviously necessary that collection of existing taxes should improve.

The examiner of local fund accounts, Utter Pradesh, in his memorandum to the Committee makes the following remarks:—

> "It is common knowledge that the collection of taxes by local bodies is seldom made in full. Interested parties create such a situation that the permanent officials in charge of collection become seriously handicapped and quite a good portion of legitimate income becomes irrecoverable and is written off. Provision exists for penal measures ; but ways and means are found to evade them even. It is difficult to suggest how 100% recoveries should be effected. Coercive methods as, for instance, recovery of dues like the recovery of land revenue combined with grant of rebate in cases of prompt payment, may be adopted. For good collections made by collecting agencies a proper system of rewards and recognition may also be introduced."

(j) In Orissa the percentage of collections to total dsmand was 92.0 in 1940-41. The figures for 1945-46 and 1946-47 are :—

North Orissa	95	95
South Orissa	88.6	88

The Government of Orissa state that the standard of collection of taxes is not up to the mark. This is due to inefficiency of the collecting staff or the apathy of the tax-payers. In order to improve the collection work it is suggested that a rate of interest may be levied on the arrears of taxes and the arrears of interest be recovered by distraint as prescribed in the respective municipal Acts.

(k) For Assam the following extract from the note of the State Government gives the position regarding collection of taxes :—

> "The pericdical Audit report on the accounts of Local Bodies received from the Examiner of Local Accounts revealed a somewhat unhappy state of things as regards collection of taxes and about the manner and method of expenditure. Penal action should be resorted to whenever necessary to realise taxes in arrears. An officer of administrative experience and of the standing of the now defunct Commissioner of Division should regularly inspect the offices in all departments of the Local Bodies. His inspections will have a salutery effect on the control of expenditure of the Boards' Fund collected from tax-payers money".

The above review of the position in the major State brings out two features which are common to them all :—

(1) with the exception of Madras, the state of collection is generally unsatisfactory, and

(2) no effective action is taken to cope with this situation.

597. Things are allowed to slide and the same complaint is repeated time after time. It is, therefore, necessary that each State Government should prescribe for their local bodies a standard of collection and should see that it is adhered to. This mean the strengthening of the machinery of collection.

598. We also suggest that the Examiner of Local Fund Accounts should be instructed to give full figures in his report of the percentage of collection to demand for each and every local body under his audit. In some States this information is given, but not in all, with the result that we are unable to present a complete picture of the percentage of collection to demand based on the audit reports. The figures should be collected on a uniform basis so that they may be comparable with figures in other States.

599. It is obvious that improvement in the machinery of assessment would by itself produce no effect if the machinery of collection is also not simultaneously improved. Various suggestions were made to us in regard to improvement in collections, *e.g.*, grant of rebates, imposition of surcharge, greater use of coercive methods, etc. We are not in favour of any rebates, as this will result in the deterioration of the financial position and not lead to any improvement. No rebate worth stating can be granted without exceeding the present cost of collection. We suggest that penal interest at $6\frac{1}{4}$ per cent. per annum should be charged on arrears of municipal taxes.

600. As regards coercive processes, in the Acts of most of the States, where the powers are inadequate we suggest that necessary amendments should be made to incorporate these powers. The powers of distraint should be vested in the local body, where it does not enjoy this power. Where, however, adequate powers already exist, it is necessary to impress upon the local bodies that freer use should be made of these coercive processes in the collection of taxes. We find that in the Bengal and the Punjab Acts, the Government have power to take over any department of the municipality if the municipality shows persistent incompetence or is guilty of persistent default in its management. We suggest that there should be power in all the Acts to take over the work of collection in the case of persistent default in the collection of taxes.

601. In relation to the power to distrain for recovery of dues, two main issues arise :—

(1) for the recovery of what categories of municipal dues should the powers of distraint be employed ?

(2) what kind of properties should be distrained and sold for the recovery of such dues ?

As regards (1) above, we are not generally in favour of issuing distress warrants for recovery of contractual dues but only for recovery of taxes and fees. So far as rents of land vested in or managed by municipalities are concerned, we recommend the adoption of the procedure prescribed in section 291* of the U.P. Municipalities Act, *i.e.*, the Municipality should apply to the Collector for the recovery of such rents as arrears of land revenue and the Collector, on being satisfied that the sum is due, should proceed to act accordingly.

As regards (2), *i.e.*, what categories of properties, etc., should be liable to be distrained, the provisions in the Acts differ from State to State. In some States local bodies have only to distrain moveables from the recovery of their dues. We are of the view that local bodies should have the power to proceed not only against movables but also against immovable property for the recovery of their taxes and fees. Some of us, however, feel that this power of proceeding against immovable property should not be exercised directly by the local bodies but through the District Mrgistrate.

602. It is, however, no use remedying the system without improving the efficiency of personnel. No system, however sound, will work if the personnel is not upto the mark. The fact that municipal service does not attract promising men has to be recognised and steps taken to attract good men and keep them contented. We are not concerned with the general question of municipal services but only with financial services. It is desirable that the head of the financial administration of a local body should be a qualified, and specially selected person particularly in the bigger municipalities with an annual income exceeding Rs. 1 lakh. He should be in charge of all the accounts work and it should be his duty to examine the position with regard to collection of taxes and submit monthly reports to the chief executive authority, to bring to his notice any failures in collection and suggest a suitable remedy.

603. In order to improve financial administration it is desirable that the position of the head of the accounts department should be strengthened. In all matters of finance, the chief executive authority should consult him. No liabilities of a financial nature should be incurred before he has examined and reported thereon.

604. With regard to recruitment of the higher financial personnel, we are of the opinion that there should be a Provincial Cadre for such services. In this connection we wish to bring to notice the following resolution passed by the Local Self-Government Minister's Conference held in New Delhi on the 6th and 7th August, 1948 :—

> "In view of the fact that a Provincial Cadre will facilitate recruitment of suitable personnel from a wider field and provide for a more efficient and contented service, this conference is of opinion that there should

*Section 291 of the U.P. Municipalities Act, 1916 runs as follows :—

Recovery of rent on land.

"(1) Where any sum is due on account of rent from a person to a board in respect of land vested in, or entrusted to the management of the board, the board may apply to the Collector to recover any arrear of such rent as if it were an arrear of land revenue."

(2) The Collector on being satisfied that the sum is due shall proceed to recover it as an arrear of land revenue."

be provincial cadres for the higher executive and technical staff employed by local bodies."

With a Provincial cadre such as that suggested above the question of control would at once arise. We suggest that such a cadre should be controlled by a board with statutory powers on which there should be representatives of local bodies. We understand that the provincialisation of the higher cadres is already under consideration it necessary to suggest a cut and dried scheme regarding the composition and functions of this Board.

605. **Disqualification of members of local bodies arising from being in arrears in respect of municipal dues.** A transcript of the relevent statutory provisions, disabling municipal councillors from continuing as such when in arrears of municipal dues, is given below:—

Madras City Municipal Act, 1919.

Section 53(1) (hh) Subject to the provisions of section 54 a, councillor or alderman shall cease to hold office as such if he fails to pay arrears of any kind due by him (otherwise than in a fiduciary capacity) to the Corporation, within three months after a bill, notice or direction has been served upon him under the Act or where in the case of any arrear this Act does not require the service of any bill, notice or direction, within three months after a notice requiring payment of the arrear (which notice it shall be the duty of the Commissioner to serve at the earliest possible date) has been duly served upon him by the Commissioner.

Madras District Municipalities Act, 1920.

Section 50(1) (hh) Provision same as above.

City of Bombay Municipal Act, 1888.

Section 16(1) (ee) A person shall be disqualified for being elected and for being a councillor if such person—(ee) fails to pay any arrears of any kind due by him (otherwise than as a trustee) to the Corporation within three months after a special notice in this behalf has been served upon him.

Bombay Municipal Boroughs Act, 1925.

Section 28(1) (e) If any councillor during the term for which he has been elected or nominated—fails to pay any arrears of any kind due by him to the municipality within three months after a special notice in this behalf has been served upon him, he shall, subject to the provisions of sub-section (2), be disabled from continuing to be a councillor and his office shall become vacant.

Bombay District Municipal Act, 1901.

Section 15(2) (f) If any councillor during the terms for which he has been elected or appointed fails to pay any arrears of any kind due by him to the municipality within three months after a notice in this behalf has been served upon him, he shall subject to the provisions of sub-section (3), be disabled from continuing to be a councillor and his office shall become vacant.

The Calcutta Municipal Act, 1923 contains no provision in this respect. But in respect of other municipalities the State Government under Section 62 (2) (f) of the Bengal Municipal Act, may remove any councillor who is in arrears of municipal rates and taxes for over a year.

No such provision exists in the

(1) Punjab Municipalities Act, 1911.

(2) Bihar and Orissa Municipal Act, 1922.

(3) Assam Municipal Act, 1923.

The provision embodied in the Madras enactments is more comprehensive inasmuch as the disqualification is incurred three months after a bill, notice or direction has been served upon such councillor. The Bombay Acts provide for the service of the special notice on the defaulting councillor and the period of three months, allowed for making payment, counts from the date of the service of such special notice.

Under sub-section (1) of section 40 read with section 14 (3) (f) of the U. P. Municipalities Act, the State Government in the case of a City municipality and the Commissioner in other cases may remove a mumber if he is in arrears.

Under section 22-B of the C. P. & Berar Municipalities Acts, 1922, a member shall cease to hold office if he fails to pay the arrears of any tax due by him and shall be disqualified for re-election until the arrears due by him are paid.

606. **Recommendation.** We recommend that :—

(1) Members of local bodies, falling into arrears should be disqualified and removed from office ;

(2) Nobody should be eligible to stand for election to any office in a local body, if on the date of filing nominations, he is in arrears of local taxes ;

(3) If within three months of the notice of demands of any dues to the local body, member of such body fails to pay up the arrears, a warning notice that if he does not pay the arrears before the date of expiry of the original notice of demand, he becomes disqualified under the relevent section of the Act, should be given. One of our colleagues, however, is not in favour of the giving of any special notices.

CHAPTER XVII

GRANTS-IN-AID AND ASSIGNMENT OF REVENUE

607. Local self-government in this country developed after the British model naturally adopted in the beginning more or less the same system of state assistance to local bodies as in vogue in the United Kingdom at the time.

608. Functions performed by local bodies are either purely local or what may be described as national or seminational in character. The performance of local services in any area has to be sole responsibility of the local body concerned But in the case of more important services, the nation as a whole having a predominant interest in their efficiency, it is against social well-being to let the limitations of local financial resources determine the level of their attainment. Provision of education, communications. and health services fall under this category and in their case the nation has to ensure against their falling below the minimum national standard of efficiency.

609. Artieles 45 and 47 of the Constitution deal with the standards to be aimed at in respect of education and health by the State Governments :—

Article 45 :—The State shall endeavour to previde within a period of ten years from the commencement of this Constitution, for free and compulsory education for all children until, they complete the age of fourteen years.

Article 47 :—The State shall regard the raising of the level of nutrition and the standard of living of its people and the improvement of public health as among its primary duties.

It is felt that if these functions are to continue to be the responsibility of local bodies as a means of encouraging local initiative, enterprise and cooperation, the State must come to their assistance by way of adequate grants-in-aid where the local bodies are unable, out of their own resources to achieve the minimum national standard of efficiency.

610. In England, the grant-in-aid is a subvention payable from the Exchequer to a local government authority in order to assist that authority in the execution of some or all of its statutory duties. In that country, therefore, grant-in-aid is given to local bodies to augment their financial resources in preference to their sharing of centrel taxes.

611. Such a grant or subvention may be an isolated payment, but is usually recurrent or annual. It may be a matter of statutory obligation or dependent on the decision of the Minister incharge of a particlar department. It may, again be given unconditionally as a fixed amount or made variable according to the circumstances of each case. Again, the variation in the amount may depend on all or any of the following factors :—

(1) The growth of population or of a particular section of it.

(2) The extent of some particular service.

(3) The number of officers appointed or the sum of their salaries.

(4) The expenditure of the receiving authority.

(5) The rateable value ef its district.

(6) The efficiency of its work.

In England as expenditure of local bodies mounted, an increasing part was met from grants-in-aid rather than from the local property taxes known as rates.

612. Until 1929 the grants-in-aid were almost wholly allocated for specific local functions, but in that year a block or consolidated grant was substituted for the specific grants for major functions excepting education, police and primary roads, which still received specific grants. The block grant was introduced to simplify and unify the grant system, to permit more flexible national supervision with more local freedom in minor details, to give more weight to local needs and capacities in the distribution of national funds, to give tax relief to agricultural and other industrial property, and to provide more national aid for the local governments.

613. The various measures of financial assistance given in Enlangd are as follow :—

(a) **Assigned Revenues.** The Local Government Act of 1833 gave to local authorities the proceeds of various national taxes and for a few years it seemed as if this method of assistance might become popular. It is probable that "whisky-money"—the linking of education to the yield of the spirit duty—turned public opinion against the principle. Later, a lump sum payment was substituted for the proceeds, till in 1930, this also was discontinued as a part of the changes made by the Local Government Act of 1929. County and county borough councils, however, still receive the proceeds of the dog, gun, and game licences taken out in their areas.

(b) **The Allocated of Substantive Grant.** The allocated grant consists in making grants towards specified branches of service. For example, the grant which the central authority made towards Poor Relief was not a single grant, but was composed of a number of grants, each one allocated to a particular branch of the service, the salaries of Union Officesrs, the maintenance of pauper lunatics, the education of pauper children and the salaries of teachers in Poor Law Schools. The advantage of the system is that the central authority has the power to encourage or discourage, in some detail the development of the various parts of the service. But it has its disadvantages. The Central authority must carefully define the items to which it will attach a grant. While the local authority must provide carefully kept accounts to show that expenditure has been exactly within the lines required, the central authority must burden its staff with the calculation of each of the severel items. The local authority is, thus, deprived of discretion in the application not only of governmental subventions but also of its own money which to earn the grant, must be spent in the services as required by the Central authority.

(c) **The Block Grant.** The essential characteristic of the block grant is that it is given in respect of generally named service only, without itemized specification of the objects to which it is to be applied. For example, one may give for the services of police in general a quarter of a half or three-quarters of the total expenditure, without specifying how much thereof is in respect of and to be spent upon say, uniforms, motor-bicycles, police stations or subsidies for the rent of police men's dwellings. This generality of grant, however calculated, has advantages, in the words of the Committee on Local Taxation, of being 'more suited to the complex and ever-changing character of present day administration and to the varied circumstances of local authorities'.

614. Both allocated and block grants are capable of calculation on either (1) the percentage system, (2) the unit system or (3) the formula system, described below :—

(i) **Percentage System.** It consists of giving a local authority a percentage of its expenditure upon certain objects approved by government department. The

percentage varies a good deal, on the whole being greatest when the council is acting largely as the agent of the government as in Civil Defence, the grants varied from 60 per cent. to 100 per cent. or where the object to be attained is of importance to the government without being one that would by itself stir the local authority to action. For instance, the abolition of toll bridge is a matter that interests the Central Government because it helps the easy movement of people and of goods, but the local authorities are used to tolls and probably regard them as matters of course. Therefore authorities willing to buy out toll owners are offered 75 per cent. of the cost. The merits of this method of calculation are ease and flexibility.

(ii) **Unit System.** This type of grant, which varies with the service provided, is ordinary used for housing, a subsidy being given of a certain sum for each house built by the locat authority (together perhaps with a certain yearly contribution towards the loan charges) or per person displaced by slum clearance. Other examples of this kind of grant are those for afforestation (a sum not exceeding £ 4 per acre), and midwife training (£ 35 per trainee).

The great advantage of unit grants is, that should a local authority be extravagant in its views of what should be spent, or spend more heavily per unit than necessary because of its lack of skill and wisdom, the local community and not the Government will suffer by the need to find the excessive expenditure. Moreover, the expenditure is easily calculated and reviewed.

(iii) **The Formula System.** Formula grant means a grant calculated by reference to a number of factors including the necessity for the service and an allowance for the wealth or prosperity of the area. Though it was suggested by the Royal Commission of 1901 it was actually adopted in 1929 in the case of education grant. The great advantage of this method of calculation is that it provides a sum for each authority directly related to its own particular necessities. It overcomes the great difficulty which issues from the existence of small areas of local administration whose needs and capacity do not correspond, and cannot otherwise be equalised, because of the extreme devergence of the variations. The disadvantage of the system is that it is extremely difficult to discover all the factors of need and ability which will produce a really just combination, it involves the central authority in arduous calculations, and, therefore, the calculation once having been accomplished, almost that it shall not be revised for a considerable period.

615. The Local Government Act of 1929 substituted a new system of block grants for certain assigned revenues and percentage grants at the same time increasing the total to compensate local authorities for their losses under derating. The grant was distributed on a formula of some complexity, designed to give more proportionately to the poor than to the rich, not by taking from the latter but by adding to the former.

It thus brought about a very limited amount of rate equalisation. It was also arranged to give more per head of population to urban than to rural authorities, on the ground of the greater responsibilities of the former.

The scheme was introduced in stages to allow for adjustment, and would have been fully in operation by 1947 but for the World War II.

616. The Local Government Act, 1948, altogether abolishes the old system of block grants, and substitutes equalisation grants, to be recalculated each year payable to Country authorities in England and Wales, and to counties and large boroughs in Scotland if their resources are not up to the level calculated from the average rateable value ahead of the weighted population. The weighting is done in such a way that old industrial areas and rural districts will particularly benefit. These grants are of two kinds, the one paid from the exchequer, the other raised from certain county districts and paid to others by the county council by means of the machinery of precept.

617. In addition to the above, special grants to local authorities have also been made by the Exchequer. As a result of the introduction of the General Exchequer grant, for instance, certain special sums had to be paid to those authorities which lost revenue as a result of the plan. The war of 1939-45, again, led to the payment of special grants to towns hard hit in their finances by the destruction of rateable property and the evacuation of population. Peace has seen reconstruction grants paid to certain towns such as seaside resorts to help them with the work of putting themselves in order, while under 1948 Act transitional grants are payable for the first five years in addition to the equalisation grants. Both percentage and block grants have firmly established themselves in England. The experiments in abolishing or reducing percentage grants have foundered on the fact that they are much too potent an instrument for developing and maintaining local services at the requisite standard. The percentage element which is of importance in initiating a new service, however, has tended to give way to equalising elements which are more important once the service is established and parity in standards between different areas becomes a prime consideration. In this development the block grant which it was hoped would supersede the percentage *grant has served as a model.*

618. In our country, State governments at present give financial assistance to local bodies in one or more of the following ways :—

(*a*) By paying such grants as represent cost of certain items of expenditure incurred in relation to particular services. An example of this is found in several provinces where a proportion of the salaries of Health Officers is paid by the State Government out of state revenues while in the matter of education subsidies are given to the local bodies by the State Government for specific items such as buildings or equipment, or salaries and allowances of teachers.

(*b*) By payment of block grants as financial assistance to poorer local bodies to enable them to balance their budgets. Such block grants are distinguishable from grants for specific purposes. The system of block grants has, in recent years, been largely discontinued.

(*c*) By proportional grants including percentage and unit grants in which grants made by the State Government bear a specific proportion to the total expenditure. Grants for education and medical relief in many states are of such a nature.

In India, grants-in-aid have been growing in importance in thirty years and the rural local bodies particularly have come to depend upon them for a very large proportion of their income.

619. **Madras.** In Madras, grants-in-aid are given by Government to local bodies for the purposes mentioned below :—

(*i*) Roads, brides, culverts etc.

(*ii*) Payment of dearness allowance to staff to the extent to which local bodies are unable to meet the expenditure.

(*iii*) Education ;

(*iv*) Medical and public health purposes including grants for protected water supply and drainage schemes.

The sub-joined figures indicate the pace at which Government assistance to local bodies has progressed in this State :—

	Municipalities			*District Boards*		
1890-91	Rs.	2.11	lakhs.	Rs.	3.07	lakhs
1900-01	,,	1.34	,,	,,	2.85	,,
1910-11	,,	*7.48	,,	,,	21.63	,,
1920-21	,,	17.95	,,	,,	74.76	,,
1930-31	,,	21.42	,,	,,	167.19	,,
1940-41	,,	30.20	,,			
1948-49	,,	47.54	,,	,,	202.59	,,

620. **Bombay.** In Bombay, Government assistance in the case of municipalities is for the following purposes :—

(1) Fifty per cent, grant-in-aid to meet the cost of dearness allowance to the staff except Ahmedabad, Poona, Surat, Sholapur and Hubli municipalities which being big industrial centres were expected to raise income by means of additional taxes to meet expenditure on this account.

(2) *Water Supply and Drainage.* Fifty per cent. towards capital cost in the case of dsistrict municipalities and 33.1/3% in the case of borough municipalities.

(3) *Health Officers and Sanitary Inspectors.* Government bear one-half the cost on account of medical officers of health appointed by municipalities and one-third in the case of Sanitary Inspectors and Chief Sanitary Inspectors.

(4) *Housing of Harijan employees.* Government pay subsides towards capital cost equivalent to
(1) 33.1/3% to Borough municipalities and
(2) 50% in the case of district municipalities.

(5) *Primary Education.* Government bear one-half the approved expenditure in the case of authorised municipalities except Ahmedabad which gets only one-fourth and Poona City, Surat and Sholapur which get one-third.

(6) *Non-recurring grants towards epidemic control.* In the case of District Boards the Government assistance is in the following form :—

I. **Statutory grants on account of—**

(*a*) salaries of Chief Officer or Engineer and Health Officer (two-thirds) provided, appointment approved by Government.

(*b*) *Grants for the abolition of tolls.* This is a compensatory grant equal to the net average annual income of the board from tolls during the three years ending 31st March 1936, plus 10 per cent.

(*c*) *Primary Education Grants.* Local Boards contribute 15 pies out of 36 pies of local fund cess collected by them. The balance is borne by Government.

II. **Non-Statutory—**

(*a*) Grants for local public works.

(*b*) Dearness allowance grants—50% of the expenditure on this account.

*Includes Rs. 3.5. lakhs grant-in-aid of sanitation.

(c) Village water-supply ;
(d) Dispensary grants.

The sub-joined figures indicate the extent of State assistance to local bodies during the years 1948-49 and 1949-50.

(In thousands of rupees)

Year	*Municipalites*				*District Boards*		
	Provincial Revenues	Recurring	Non-recurring	Total	Recurring	Non-recurring	Total
1948-49	50,93,97	55,77	50,29	106,06 2.1%	4,82,34	230	4,84,64 9.5%
1949-50	52,85,76	73,66	...	75.56 1.3%	5,11,30	311	5,14,41 9.7%

621. **West Bengal.** In West Bengal, State assistance to municipalities is made by means of grants-in-aid for the following purposes :—

(1) Dearness allowance to staff
(2) Health grants.
(3) Public Works grants.

In addition to the above grants, the District Boards receive the following :—

(4) Annual subsidy not exceeding Rs. 2,000 to approved thana health units maintained by district boards.
(5) Two-fifths of the annual cost of permanent thana vaccinators who are district board employees and subsidies.
(6) The pay of health assistant per thana health unit for compilation of vital statistics.
(7) Kala-azar grants.
(8) Grants to thana and village dispensaries maintained by district boards at the rate of Rs. 5,000 and 250 respectively per annum.

The provision included in the 1948-49 budget estimate for this purpose was as under :—

A.	1. Calcutta Corporation	Rs.	81,17,725
	2. Other municipalities	,,	26,01,500
	3. District Boards	,,	37,88,321
	Total	Rs.	145,07,546
B.	Total amount of Road and Public Works cess received by district boards.	Rs.	32,73,040
C.	Total revenue receipts of the State	,,	31,76,52,000
	Percentage of total grants-in-aid to local bodies (excluding receipts from Roads and P. W. Cess) to total revenue.		4.56

622. **Uttar Pradesh.** In Uttar Pradesh, grants-in-aid out of the general pool of State revenues are given to local bodies towards :

(a) general expenditure.
(b) expenditure on education.
(c) ,, ,, medical relief ;

(d) expenditure on public health ;
(e) ,, ,, drainage & water works ;
(f) ,, ,, roads & civil works ;
(g) ,, ,, grant of dearness allowances ;
(h) ,, ,, on other activities ;

The principles generally observed in making grants for education, medical relief, public and communications are described in detail in the special chapters under the above heads. The grant-in-aid for general purposes includes the following items :—

(1) Contract grants in aid for miscellaneous purposes to 15 district boards consequent on the transfer of local rates, (which were appropriated for expenditure on rural police). On the receipt of certain additional grant.in-aid from the Government of India, the U. P. Government fixed on the eve of world War I a standard expenditure to be incurred by district boards under certain heads and the boards which could not keep sheir expenditure upto the prescribed standard were given grants-in-aid by Government in order to enable them to do so. These are known as contract grant-in-aid, and their amounts were fixed in 1914-15. Only 15 district boards get these grants and the system has remained unchanged till to day.

(2) Contract grants in aid to Saharanpur and Bullandshahr district boards for general purposes. This represents amounts which were decided in 1926 to be given to these two district boards because they had been required to spend substantial portions of their income on education and were in consequence crippied and were unable to provide sufficiently for ordinary administration.

(3) Grant-in-aid to District Board Dehra Dun for veterinary purposes. It was decided in 1914 at the time of overhauling the system of contract grants-in-aid that Dehra Dun Disttict Board must receive a special grant-in-aid of Rs. 1,295/- for veterinary purposes and therefore this sum was made an integral part of the contract grant in aid to the Board.

(4) Contract grant in aid to District Board Ballia. It represents a special grant to Ballia District Board owing to a revision ordered by Government in the acerage rate in force in the district which adversely affected the Board's receipts from acreage cess. It was then decided to make a permanent increase of Rs. 5,626/- in the contract grant in aid to this board to cover the loss.

(5) Grant-in-aid to District Board Ballia on account of the surplus receipts of Ballia ferry managed by the District Magistrate. In 1920 owing to the shifting of the river, Ballia ferry came within the municipal limits and the management was entrusted to the District Magistrate on behalf of the district board who were given the whole of the net ferry income as grant-in-aid.

(6) Special grants-in-aid to 3 hill district boards in Kumaun. It was decided in 1918 to make grants-in-aid totalling Rs. 77,375/- to the three hill district boards in Kumaun division because it was considered desirable and necessary to allow the hill boards a share out of the Government profits from Kumaun forests particularly in view of the general backwardness of their administration. Besides this, the district boards in Kumaun receive annual grants-in-aid totalling Rs. 2 lakhs from the forest department.

(7) Grant-in-aid to District Board Jhansi as compensation for loss of certain groves. In 1932 certain groves which had till then been managed by the district board were transferred to the management of the Board of Revenue and it was decided to compensate the Board on the basis of the average of the preceding 5 years.

(8) Grant-in-aid to District Board, Naini Tal of Rs. 40,000/- to compensate it for the loss resulting from the exemption of certain Government estates in Tarai and Bhabhar from local rates.

(9) Certain recurring grants are also given to a few municipal boards as compensation or subsidy for loss of income from (a) certain taxes (b) Nazul property or stare lands resumed by Government and (c) as maintenance charges for flood protection works etc.

Grant-in-aid towards expenditure on drainage and Waterworks.

In 1947-48, Government started a scheme with a provision of Rs. 20 lakhs for giving grants-in-aid, to the extent of half the cost of the projects, to municipalities for execution of drainage and water supply projects as part of Government's Post War Development programme entitled to participate in the Government of India's subsidy.

Grants-in-aid towards expenditure on dearness allowance.

Government gives a grant to all local bodies towards expenditure incurred by them on account of dearness allowance to their low paid employees. The scheme was started in 1944-45. The present rate of subsidy amounts to Rs. 6 per permanent employee drawing a salary of Rs. 40/- p. m. or less except in the case of teachers in whose case subsidy is payable irrespective of their pay. The expenditure during 1946-47 on this account was about Rs. 63.6 lakhs which in subsequent years increased to about Rs. 70.2 lakhs.

Grants-in-aid towards expenditure on other activities of local bodies.

Grants-in-aid are paid from time to time under the above head for some of the other activities of local bodies *e.g.* for the development of cottage industries, for veterinary hospitals etc. Grants-in-aid aggregating over Rs. 1.5 lakhs were paid to district boards in 1947-48 towards the cost of elections. Again grants-in-aid amounting to about Rs. 3.4 lakhs were given in the year 1947-48 towards the provision of relief to displaced persons from Pakistan. There are no fixed principles for giving such grants-in-aid. They are made to enable the boards to meet unforeseen emergent contingencies.

Grants-in-aid were also given to local bodies equivalent to (1) certain receipts from cattle pounds under the Cattle Tresspass Act (2) proceeds from ferries (3) proceeds from magisterial fines under certain enactments. Prior to the Government of India Act, 1935 these sources of income belonged to the local bodies but since then have begun to be credited to the provincial revenues and grants given to compensate the local bodies for the loss sustained by them due to constitutional changes. The total grants paid in this connection during 1946-47 were as follows :—

Equivalent to cattle pound receipts	Rs.	17.7 lakhs
,, ,, ferry receipts.	Rs.	11.3 ,,
,, ,, magisterial fines.	Rs.	3.2 ,,

Grants equivalent to 45 per cent. of receipts from Tehbazari fees on provincial roads running through local areas are paid to local bodies concerned, Government retaining the remaining 55%. The total amount of such grants comes to about Rs. 10,000 per annum only. Moreover the receipt from provincial ferries, after deducting the expenditure on maintenance of the ferries are distributed as grants-in-aid among the district boards concerned. The total amount of grants-in-aid given on this account in the year 1946-47 was over Rs. 1 lakh.

	1946-47 (In lakhs of rupees)	1947-48 (In lakhs of rupees)
District Boards	178	214
Municipalities	69	86.5
Town Areas	3.5	3.6
Notified Areas	2.5	2.6
	253	306.7

Total grant-in-aid was only 8% of the total revenues of the State during the above two years.

1948-49 Rs. 247 lakhs Rs. 49.2 crores.
1949-50 Rs. 373 - ,, Rs. 56.2 ,,

623. **Punjab.** In the Punjab no specific policy has been laid down for regulating State assistance to local bodies. Grants are paid under the heads (1) Education (2) Medical (3) Public Health (4) Engineering works (5) Miscellaneous (6) General such as block grants to district boards and panchayats. The State Government are of the opinion that no grants-in-aid should be distributed in the form of block grants for each service but according to the needs of the localities. The ability of each local body to raise local funds and the necessity for local expenditure upon each service by it should be determined, by fixing a minimum standard rate which every local body should impose. The grant should in their opinion, be the difference between the amount of expenditure based on the minimm standard expenditure and the amount produced from minimum rate. This scheme has two characteristics ; it makes (i) for economy and (2) for equalixing the burden of local taxation.

The budgetary provision on this account for the year 1950-51 is as under :—

Grant-in-aid	...	Rs. 1,45,93,270
Loans & Advances	...	Rs. 8,00,000
Total State Revenues		16,63,59,000
Percentage of Govt. grant to total revenues.		8.7

624. **Bihar.** Municipalities in this State receive no statutory grants but only non-statutory grants for specific purposos are sanctioned to them such as grants for educational purposes, for medical purposes, for maintanence of roads out of the proceeds nnder the Motor Vehicles Taxation Act and for general purposes such as purchase of equipment and construction of quarters for harijan employees. They also get grant in lieu of fines and penalities under the various Acts such as the municipal Act, the Prevention of Cruelty to Animals Act and fees under the Petroleum Act which used to be credited to them prior to the adaptation of these Acts by the Adaptation of Indian Laws Orders 1937. Grants for purposes other than the above *e.g.*, capital projects also have been made to municipalities. The determining factor in these cases being the requirements of the individual municipality applying for such grants and whether by reason of efficient management of municipal affairs it deserves some assistance from Government.

District boards do not receive any statutory grants for any specific purposes. On the other hand they get the following non-statutory grants for specific objects :—

(1) grant from Motor Vehicles Taxation proceeds and other grants for improvement of communications,

(2) grants for maintenance of hospitals or dispensaries,

(3) education grant for maintenance of schools,

(4) proceeds from petrol tax are given by the Central Government to State Governments who distribute it to local bodies in the form of subvention for repairs of roads.

The present system of grant-in-aid is not based on any fixed principle. For instance district boards get fixed education grants for maintenance of schools on the condition that they spend a certain minimum fixed by the State Government over education. The principle of giving grants for education and public health purposes etc. on the basis of the population of a district or on its financial capacity has not been worked out. Grants are made according to the requirements of district boards and Governments capacity to sanction them.

Grants-in-aid

1847-48	Rs. 1,62,46,919
1948-49	,, 1,42,75,986
1949-50	,, 1,85,37,599

625. **Orissa.** The State Government are giving grants in-aid to district boards and municipalities for purposes relating to medical relief (medical and public health) education and communications. The principles regulating grants for such purposes are outlined in the relevant chapters. The figures for the year 1949-50 were as under :—

Grant-in-aid	Rs. 56,88,617
Total State revenue	10,98,04,000
Percentage of grant in aid to total revenue	5.18

Details of grant-in-aid.

1.	Civil Works & Miscellaneous	Rs. 10,49,925
2.	Education	18,01,522
3.	Medical	2,35,769
	Total	Rs. 30,87,216

Assignments.

Land Cess	Rs. 18,87,700

Compensation payable to Local Bodies.

1.	Entertainment tax	Rs. 14,086
2.	27-Administration of justice	18,758
3.	M. V. Taxation Act.	6,54,530
4.	57-Miscellaneous,	27,027
	Total	7,14.401

626. **Madhya Pradesh.** The State Government is of opinion that State subventions should be restricted to semi-national services or those which are administered by local authorities but in which the State has at the same time so marked an interest in their efficiency as to justify a claim to the supervision of their administration. These services which are both centrally and locally administered and intimately concern the health and well being of the residents of the State fall into three main groups,

(a) Education

(b) Public Health

(c) Communications.

Government at present contribute towards the expenditure on these services on certain conditions detailed in the relevant chapters of this report.

The sub-joined figures indicate the extent of financial assistance to various local bodies in this State as provided in the budget estimates for the year 1950-51.

I. **Compensation.**

Share of revenue from Court fee stamps	2,000
Motor Vehicles Taxation Act	Rs. 45,000

II. **Grant-in-aid.**

Education	72,11,000
Public Health	4,83,000
Subsidy towards composing town refuse.	54,300
Veterinary	5,31,000
Miscellaneous	72,55,000
Total	1,62,05.000
Percentage of totai grant-in-aid to total revenue (17,57,63,000)	10.8

626. **Assam** In Assam, the payment of Government aid is regulated by the needs of particular localities, due regard being given to the backward or undeveloped character of the areas as also the capacity of the bodies to execute works. This principle appears to the State Government sound as the main function of grants-in-aid according to them is to equalise the resources of different local bodies and to serve as a supplement to local be earmarked for particular resources. They, however, consider that grants should purposes to ensure that those services are rendered and that there should be detailed scruting of expenditure on grant-in-aid works.

The following figures indicate the extent of state assistance for the year 1948-49 :—

Grant in aid	Rs.	58,34.582
Total Provincial eevenue		7,63,68,000
Percentage of grant-in-aid to total revenue.		7.6

The details of the grant-in-aid are as under :—

Education	28,29,763
Medical relief	4,10.800
Public Health	9,57,736
Communications	12,50,869
General purposes	2,16,414
Total	58,34,582

628. From the details given, it would be clear that the existing scale of Government assistance towards education, medical relief, public health and communications has proved inadequate and is likely to prove more so, when action is initiated to achieve the targets laid down in the Constitution.

It must be admitted that inspite of some improvement in the policy of State Government since 1921 and consequent widening of the powers of local bodies, the present position regarding grant-in-aid in India is not satisfactory. The State Government while investing local bodies with wider responsibilities must also place at their disposal adequate funds to supplement their revenue ; as even with the utmost development of their own resources, they cannot expect to have adequate funds for an efficient functioning of their services.

629. Grants-in-aid should be so given that, while achieving clearly defined objects of policy and administration, they do not encourage in the local bodies an unwillingness to develope their own resources. Self-help is essential for the development of local government ; and although it may not be possible to make that it needs, the principle of self-help does not become any the less important on that account.

State Governments should, therefore, continue to make use of the grants for stimulating self-help. This, however, ought not to be the only or the most important object of their grant-in-aid policy. That object must be the equalization of opportunities and resources. As a necessary corollary of such policy, the local bodies have to be guided by national considerations in the administration of their services. They should maintain the national minimum of efficiency, but more important that is the necessity of evolving, formulating and adopting common policies. To achieve this central coordination appears to be more necessary than central control.

The grants should therefore be so administered as to fit in with the needs of a system for the efficiency and success of which both local initiative and national purpose are equally essential. The State Government have, at present to work the system of grants-in-aid on the basis of the assessment of means and needs, but in assessing both they should appreciate the effect of national factors on the resources and requirements of local authorities and the system consciously used as a device for pooling resources, ideas and needs so that local self-government may without impairing its autonomy, gain in effectiveness and unity of purpose.

630. The criticism generally levelled against the present system of grant-in-aid is that it ignores local needs and hampers progress of social services in the less developed areas. What is needed, therefore, is a reorientation of policy so as to render local bodies capable of bringing the maximum benefit to the common man.

631. With a view to rationalise the entire policy of the state assistance of local bodies so that they may be enabled to meet the enlarged responsibility in the domain or nation building activities like primary education, public health and communications imposed on them by the Constitution, it is necessary to evolve a workable basis or some rational formula for such grants (as in the case of educational grants in England) with reference to a number of factors including the necessity for the services, and an allowance for the wealth or prosperity of the area concerned. The greatest advantage of a formula grant is that this method of calculation provides an amount for each of the services on the basis of data related to the particular necessity of the area under its jurisdiction. The disadvantage of such a system on the other hand is that it is extremely difficult to discover all the necessary factors of requirements and ability which would produce a really fair and equitable formula. The points arising for decision therefore in regard to a system of grants-in-aid to local bodies by State Government are.—

(1) what should be the guiding principle for making such grants ?

(2) on what basis should the amount of grant be distributed ?

632. It is not easy to provide definite answers to the questions posed above. We are generally of that opinion that wherever possible, local bodies should be assigned sources of revenue in preference to grants. Where it is not possible to meet the full reruirements of local bodies from assigned revenues, grants should be given as a last resort. During the course of evidence in almost every state we were told that the grants at present given were based on no understandable principles and that generally they were not based on needs. We are not in a position to say how for this is true, we are only concerned with placing the existing system on a regular basis and not with individual grievances. The system of assignment of revenues suffers from the defect that it does not offer equal financial assistance to every body. Some get more and some get less, even though their needs may be greater. To remedy such inequalities we have suggested that grants-in-aid should be given. Otherwise, generally, we would prefer that independent sources of revenue should be placed at the disposal of local bodies. They would then know what funds they were going to get in any particular year and plan accordingly. At present, we are told, they live a more or less hand to mouth existance not knowing what government grants they will get in any particular year. This uncertaintiy will be removed and they will feel more secure when revenues are assigned to them.

633. The next question that arises is what sources of revenue are suitable for such assignments ? We have in the chapter on power of taxation already recommended that the net proceeds of certain taxes (including some taxes which are at present used for State purposes) should be definitely earmarked for the purposes of local bodies. In addition, we consider that certain taxes which are now allocated entirely to state governments should be shared by them with the local bodies.

634. The first tax that we recommend for such consideration is the land revenue. The needs of rural areas are very great and the financial resources at their disposal are very inadequate compared to urban areas. The only manner in which district boards can discharge their functions adequately is hy being allowed to share in the net proceeds of land revenue. We recommend that 15% of the net proceeds of land revenue accruing within the area of a district board (which is not already assigned to panchayats within the district) should be assigned to the district hoard.

635. We also recommend for such consideration the motor vehicles tax. Several local bodies, including some of the higger ones, have made this demand. So far as the loss from toll income is concerned, we have suggested in the chapter on communications that the question of revising the compensation paid to local bodies should he reopened. But there are many local bodies which though not entitled to compensation on this account, but still feel that they have a good case for sharing the net proceeds of the motor vehicles tax with the State Gevernment on account of wear and tear to their roads and increasing cost of construction and repair of such roads. We find that the position with regard to local taxation of motor vehicles is not the same in all states. Some states permit the levy of a wheel tax by local bodies on motor vehicles ; others do not. We are not in favour of the imposition of a separate vehicle tax on motor cars hy local bodies in addition to the State tax. We recommend the sharing of the net proceeds of the motor vehicle tax with the State Government. We leave it to the State Governments to determine the principles on which these proceeds will be shared as the circumstances in each state are not the same. One of our colleagues is in favour of sharing the net proceeds on a fifty-fifty hasis. Another is of the view that where

local bodies are permitted to levy wheel tax on motor vehicles the question of sharing the tax with the State Government does not arise.

636. Another suggestion made to us was that there should be surcharge for the benefit of local body on stamp duties on transfer of immovable property. Such surcharge is already levied for the benefit of some Improvement Trusts and also for local bodies in Madras. We do not recommend any change in the status quo but are not in favour of extending the system to local bodies generally. We have, however, recommended such a surcharge for village panchayats as a special case, because we cannot think of any other suitable means of increasing their financial resources which are exceedingly poor. That is the only exception we would wish to make in this matter.

637. Several witnessess asked for a share in the sales tax or, alternately a surcharge on the sales tax for local purposes. We have considered all the arguments in favour of such a suggestion, but we regret we cannot recommend it. We are of the view that the sales tax should remain wholly a State source of revenue.

638, We have recommended above that grants should be given in order to supplement resources wherever deficient. The question then arises on what basis should such grants be regulated. Grants are of two kinds; statutory and non-statutory. With regard to statutory grants fixed principles already obtain in certain states and there is not the same complaint from local bodies. It is chiefly with regard to voluntary grants that local bodies insist upon their regulation on certain fixed principles. We regret we are unable to suggest what should be the basis for each grant in the various states. We have neither the material at our disposal nor the time to go into this question. We suggest that this question may be considered by each government in accordance with the local conditions and requirements. It is desirable that all grants whether statutory or non-statutory should be given on some definite and understandable principles, as is done in European countries, particularly in England.

639. We find that the information at present available regarding the financial assistance rendered by each state government to the local bodies within it jurisdiction is not easily ascertainable and is scattered over various heads of the state budgets, from which it is not easy to collect full information. It is accordingly suggested that each State Government may at the time of preparing the budget include in the finance department's explanatory memorandum, a statement showing the assistance to local bodies. Such a statement should also include items which do not appear in the budget such as transfer of land, or any other form of financial assistance for which vote of the legislature is required.

CHAPTER XVIII.

EDUCATION

640. Elementary education is one of the obligatory functions of local bodies under the Acts constituting them. There is no such obligation with regard to the other branches of education such as, secondary, technical or collegiate which are entirely discretionary. In the early stages of their existence, local bodies did not have to spend much on elementary education, as the Government of India did not have any particular policy regarding free and compulsory primary education. But ever since the Montagu-Chelmsford Reforms, the pace of expenditure on elementary education has increased and with it the expenditure incurred by local bodies. In addition to this some local bodies are incurring a small expenditure on secondary and technical education and, in a few cases, there are also colleges maintained by local bodies. In respect of these, we consider that there should be no financial responsibility on local bodies and that they should be relieved entirely of this liability.

641. Article 45 of the Constitution says that the State shall endeavour to provide within a period of ten years from the commencement of the Constitution for free and compulsory educacion for all children until they complete the age of fourteen years. This directive is bound to increase the financial liability of local bodies in the years to come if any portion of this liability is to be placed on them.

642. Some of us feel that the entire responsibility for primary education including control and finance should vest in the State Government. We are, however, doubtful, if we would be justified in making such a far-reaching recommendations as regards transfer of functions and have not gone into the question. The recommendations that follow are based on the assumption that the present system of distribution of financial responsibility for primary education between the State Government and local bodies will remain as it is.

643. **Madras.** The first Madras Elementary Education Act was passed in 1920. Since then it has been considerably revised. It was amended in 1931, 1934, 1935, 1938, 1939, 1941, 1943, 1946 and 1948. In its present form the Act envisages the establishment of an elementary education fund for each local authority (section 32) to which shall be credited ;—

(i) Proceeds of education tax ;

(ii) Contribution from local authority ;

(iii) Government grant ;

(iv) Fines & penalties under the Act ;

(v) Income from endowments and property owned or managed for the benefit of elementary education ;

(vi) School fees, if any colleeted ;

(vii) All other moneys received for the purposes of the Act.

The levy of the education tax is provided for in section 34 of the Act. Under that section, any municipal council or any district board may, with the previous sanction of the Provincial Government and shall, if so directed by them, levy within its area (or in any part in the case of the district boards) taxes at such percentage (as may be considered suitable) of the taxation levied in any such area

(or part thereof in the case of district boards) under the law for the time being in force governing them under all or any of the following heads, namely.

(i) Municipal councils=(Property tax, tax on companies and profession tax)

(ii) District Boards =(Land Cess, Profession tax and house tax).

The rate of education tax is 15% of property tax within the limits of the City of Madras Municipal Corporation. In the district board areas, the rate varies from 10 pies in the rupee of land revenue in Bellary and Tanjore district to 37 pies in Salem and the average works out at 20.5 pies in the rupee. In the case of municipal areas the education tax is levied as a surcharge on property tax at rates varying with each municipality. The actual rates in force in each urban area are given in the chapter on Property Tax. The receipts from this source during the decennial period ending 1947-48 were as under :—

	Receipts from education tax (in lakhs of rupees)
1938-39	29.49
1939-40	26.60
1940-41	28.52
1941-42	38.06
1942-43	48.89
1943-44	55.97
1944-45	75.34
1945-46	89.71
1946-47	93.43
1947-48	116.74

It will be seen from the above figures that local taxation in regard to education has increased four times within this period.

For the purpose of contributions by local bodies to the Elementary Education Fund, section 32 of the Madras Elementary Education Act, 1920, contains the following provision :—

"32—(1-a) an annual contribution from the general funds of such authority, not being less than a minimum fixed by the Provincial Government in that behalf.

(1-b) such additional contribution from the general funds of such authority as the Provincial Government may decide to be necessary in any year in order to balance the budget of the fund for such year.

The contributions made by local bodies from their general funds during the period under review were as under :—

Year	Contributions from local bodies (in lakhs of rupees).
1938-39	28.18
1939-40	32.49
1940-41	33.46
1941-42	28.12
1942-43	24.45
1943-44	27.97
1944-45	36.41
1945-46	45.58
1946-47	55.58
1947-48	99.59

It will be seen from the above figures that the expenditure borne by general funds of local bodies has increased 3½ times.

As against this, the Government grants for elementary education were as under :—

Year	Government Grants (in lakhs of rupees)
1938-39	89.13
1939-40	89.23
1940-41	89.43
1941-42	91.39
1942-43	92.92
1943-44	95.91
1944-45	110.80
1945-46	145.44
1946-47	169.22
1947-48	153.00

The figures given above are inclusive of grants to the Madras City Corporation. It will appear that as against Rs. 216.32 lakhs contributed by local bodies, the Government grant was only Rs. 153 lakhs.

Prior to 1941, the Government contributions were fixed with reference to the entire proceeds of the education tax realised by local bodies. In that year Government amended the Elementary Education Act withdrawing from the obligation to make a contribution in respect of taxation sanctioned after that year. Thus local bodies get more or less fixed contributions in respect of education tax realised by them. The total figure of Rs. 153 lakhs for Government grants was made up as under :—

(i) Rs. 33 lakhs —grant in respect of education tax.
(ii) Rs. 68 lakhs —subsidies for opening schools in schoolless areas.
(iii) Rs. 45 lakhs —subsidies for introduction of compulsion in district board areas.
(iv) Rs. 7 lakhs —Grants for construction of school buildings at half the estimated cost.

The Government of Madras state that of the grant of Rs. 153 lakhs only Rs. 60 lakhs is statutory, the balance being discretionery.

They consider that "the administration of elementary education is not a burden on the finances of local bodies which are able to bear it", and that "the finances of the provincial government cannot afford to bear any appreciable expenditure above that already incurred in the past few years". They, however, state that the question of increasing the incidence of the education tax and of raising the rate of contribution payable by Government is under examination.

The over-all position is portrayed in the sub-joined statement :—

Year	Local bodies expenditure on primary education	Receipts from education tax	Government grants	Net expenditure from local funds
		(In lakhs of rupees)		
1938-39	146.80	29.29	89.13	28.18
1939-40	148.32	26.60	89.23	32.49
1940-41	151.41	28.52	89.43	38.46
1941-42	157.57	38.06	91.39	28.12
1942-43	166.30	48.89	92.96	24.45
1943-44	179.85	55.97	95.91	27.97
1944-45	222.55	75.34	110.80	36.41
1945-46	280.73	89.71	145.44	45.58
1946-47	318.23	93.43	169.22	55.58
1947-38	369.33	116.74	153.00	99.59

According to these figures the growth under each head during the period under review was as under :—

Yaar.	Total expenditure on primary education	Education tax	Government Grants	Expenditure from general funds of local bodies
		(In lakhs of Rupees)		
1947-48	369.33	116.74	153.00	99.59
1938-39	146.80	29.49	89.13	28.18
	222.53 or 151.5%	87.25 or 295.8%	63.87 or 71.6%	71.41 or 253.4%

It will thus he seen that while the government grants have increased by 71 per cent, the growth of education tax has been 295 per cent, and that of expenditure from general funds of local bodies 253 per cent.

644. It is recommended that after the levy of education tax at a proper level, of which the State Government must be the judge, contribution from general funds of local bodies for educational purposes should not exceed the proportion that such contribution now bears to the income (excluding government grants) of such local bodies and the whole of the remaining expenditure should be borne by the State Government.

645. **Bombay.** The first Bombay Primary Education Act was passed in February 1918 and provided for the introduction of compulsory education for boys and girls in municipal areas. In 1920 the City of Bombay Primary Education Act was passed extending the provisions of the Act of 1918 to the Corporation of Bombay. In February 1923, the Act of 1918 was repealed and a new Primary Education Act passed which provided for the control of primary education by school boards of municipalities and district boards and for the introduction of compulsion for boys and girls in all local areas on the initiative of a local authority, or at the discretion of Government. Since then the measure

has been replaced by a new enactment known as the Bombay Primary Education Act 1947. Its application extends to the whole of the province except the City of Bombay. In the matter of control and scope, the new Act follows the pattern of the Act of 1923.

The promotion of primary education is contemplated through the agency of district school boards in rural areas and through municipal school boards in the case of authorized municipalities. The latter are defined as municipalities authorised to control primary schools. For financing the activities of the school boards, the Act also provides for the maintenance of primary education funds. The following shall form part of or be paid into, the primary education fund :-

(a) the balance of the primary education fund maintained under section 8-A of the Bombay Primary Education Act, 1923 ;

(b) the contribution payable by non-autherised municipalities ;

(c) fees and fines under the Act ;

(d) in the case of district school boards such portion of the income of the district local board as the Provincial Government may fix ;

(e) in the case of an authorised municipality, the grant paid or payable by the authorised municipality on account of primary education ;

Explanation :—For the purposes of clause (e) the grant payable shall be the amount of expenditure on account of primary education in any year less the grant paid by the Provincial Government in that year and fees and sums of money from other sources belonging to the fund ;

(f) the grant paid or payable by Provincial Govesnment on account of primary Education ;

(g) such other sums as may from time to time be received on account of primary education.

Despite this formidable list the principal sources for feeding the primary edueation funds are mainly three namely :—

(i) contribution from local funds ;

(ii) Government grants ; and

(iii) payments by 'non-authorised' municipalities.

With respect to the first, it will have been observed that in the case of municipal school boards the municipalities have to provide for the entire expenditure from their own funds less the receipts from Government grants and income from any other sources including contributions from non-authorised municipalities. In the case of district school boards, the requirement is that every district local board shall pay over annually to the district school board for the purpose of primary education such portion of its income from its revenue, described in classes (b) and (c) of section 75 of the Bombay Local Board Act, 1923, as the Provincial Government may from time to time fix in the behalf."

Extract from section 75 of the Bombay Local Boards Act, 1923 (VI of 1923)

(b) the net proceeds (after deducting the expenses of assessment and collection) of any residue of the cesses payable in the district under the Sind Local Funds Act, 1865 and Bombay Lecal Funds Act, 1865.

(Note :—These Acts have been repealed by Bombay Act VI of 1923)

(c) the net proroeds (after deducting the expenses of assessment and collection of the cesses in the district authorised by sections 93 and 95.

(section 93 : cess on land revenue)

(section 95 : cess on water-rate)

As regards non-authorised municipalities it is provided that they shall, "pay over annually to the district school board or the authorised municipality, as the case may be, for the purposes of primary education such proportion of the rateable value of properties in the area of the municipality as may from time to time be fixed in this behalf by the Provincial Government and the income accruing from any funds (including trust funds) held and all monies received by it for the said purposes".

The provincial Government's contribution, in the case of municipal school boards, shall be half the additional recurring and non-recurring cost of the scheme, "in addition to that payable under the Act of 1923" before the present Act come into force. In the case of district school boards "the Provincial Government shall pay a grant epuivalent to the amount by which the expenditure in accordance with the budget sanctioned exceeds the receipts." In other words, in the case of urban areas under "authorised municipalities"; the latter have to provide for the balance of expeniture over and above the receipts from Govrenment grants while in the case of rural areas, the Government have to bear the whole of the expenditure minus the contribution of the local bodies. Comparatively, therefore, primary education in rural areas may be held to be better placed than in the urban areas in the matter of assistance from provincial revenues. It was disclosed in the course of oral evidence that on the recommendations of the Ghate-Parulekar Committee (1925) the Government of Bombay laid down certain scales of pay and dearness allowance for the primary teachers and practically made it compulsory for the local bodies to adopt them. This raised the cost of primary education but the proportion of grant remained the same with the result that the municipalities find it difficult to balance their budgets.

The subjoined table shows the growth of expenditure of local bodies on primary education during the period from 1937-38 to 1945-46 (the latest year for which figures are available).

Year	Total expenditure on primary education by local bodies	Government assistance (excluding grant to Bombay Corporation)	Net expenditure from local funds
1937-38	1,40,46,618	75,19,530	65,27,088
1938-39	1,58,42,489	91,67,596	66,74,893
1939-40	1,61,08,962	79,73,063	81,35,899
1940-41	1,63,56,950	82,63,094	80,93,856
1941-42	1,76,31,695	89,50,202	86,81,493
1942-43	1,79,84,285	92,95,165	86,89,120
1943-44	1,96,29,875	1,03,70,841	92,59,034
1944-45	2,13,71,662	1,04,08,931	1,09,62,731
1945-46	2,36,16,533	1,22,56,968	1,13,59,565

It will be seen that the total expenditure has grown from Rs. 140.46 lakhs in 1937-38 to Rs. 236.16 lakhs in 1945-46, or by 95 lakhs in nine years. The net expenditure from local bodies' funds has increased from Rs. 65 lakhs to 113 lakhs,

or by 48 lakhs in nine years. The Government grant has increased from Rs. 75 lakhs to Rs. 122 lakhs, or by 47 lakhs in nine years. The growth of expenditure from local funds has, therefore, been at a slightly higher rate than the growth in the grant from Government.

646. We learn from the Government of Bombay that since the coming into force of the Bombay Primary Education Act, 1947, Government bears almost 95 per cent. of the approved expenditure of district school baords on primary education the remalniy 5 per cent. being met from other sources, including the contribution by the district local boards. In urban areas, Government bears 50 per cent. of the approved expenditure of the authorised municipalities on primary education.

In the circumstances, the State Government may consider whether an education cess may be levied as in Madras.

647. **West Bengal.** For the promotion of primary education, this State has no its statute book two separate enactments—one for urban areas and the other for rural areas. The Bengal Primary Education Act, 1919, originally provided for the introduction of compulsory education for boys only in municipal areas and for the levy of an education cess. It has since been amended to include girls as well (sec. 17-A). While the Bengal (Rural) Primary Education Act was enacted in 1930 and came into force with effect from January1931, its application extends to the whole of West Bengal except the town of Calcutta.

Under the scheme of the former Act, every municipality had to submit within 12 months a statement showing particulars of the existing arrangements for the imparting of primary education, future repuirements, the cost involved as also the estimates of its existing and future income and expenditure. On the basis of these data the Provincial Government had to determine the financial assistance necessary in each case.

With the prior permission of the Provincial Government, the municipalities may also introduce compulsion. For this purpose, the municipalities have to appoint school Committees of which the Deputy Inspector or Sub-Inspector of schools, at least one Municipal Commissioners and one or more residents of the area must be members. If the existing resources of any municipality are not sufficient to cover the cost of primary education, it may, with the previous sanction of the Provincial Government, impose an "Education Cess" at a rate amounting to the sum required to meet the expenditure on primary education plus an additional 10% to meet charges incidental to collection and non-realisation, etc.

In August 1920, Mr. E. E. Biss, I. E.S., was placed on special duty to formulate a programme for the expansion of primary education. The report snbmitted by Mr. Biss contained a recommendation that half the cost of primary education should be borne by Government and the other half by the local bodies concerned. This proposal was approved by the Government of Bengal in relation to the districts of Burdwan and Howrah. During the course of oral evidence tendered to us in Calcutta, it was pointed out that the intention was to extend the scheme to all the districts. But this was not carried out and the share of the expenditure on primary education now borne by municipalities in West Bengal is much greater.

For elementary education to district board areas, district school boards have been constituted, thus relieving district boards of all responsibility for primary education. Sec. 37 of the Bengal (Rural) Primary Education Act, 1930 provides that "there shall be formed for each district, a district primary education fund, to wish shall be credited.—

(i) All sums granted by the provincial Governments :
  (a) as grants to primary education.
  (b) for the institution and maintenance of primary schools and payment to teachers and
  (c) for scholarships in primary schools ;
(ii) Proceeds of education cess
(iii) Proceeds of the tax on trade, business or professions
(iv) All sums surcharged in audit
(v) Any other income under the provisions of the Act, derived from :—
  (a) Endowments and property
  (b) Fines and Penalties
  (c) School fees if any collected
  (d) All other sums of money which may be received."

The education cess is collected by Government and paid to district school boards. With the financing of district school boards this Committee is not concerned, as they are not "local bodies" within our terms reference.

648. The total expenditure of municipalities on education for the year 1948-49 was Rs. 5,48,902 and the grants from Government amounted to Rs. 1,04,719 or about 20% of the total expenditure. It is not known how much of the total expenditure was incurred on secondary schools and schools other than elementary. We understand that with very few exceptions, no education cess is levied by municipalities in West Bengal. There seems no reason for this discrimination. We suggest that in every municipality an education rate should be levied at the rate fixed in the Bengal Primary Education Act, 1919. Any increase in expenditure considered necessary to introduce compulsory primary education should, we think, not exceed the proportion which the present expenditure of municipalities on this object bears to their total income.

649. **Uttar Pradesh.** In June 1919, the U.P. Primary Education Act was passed and provided for the introduction of compulsory education for boys in municipal areas only. The U.P. District Boards Primary Education Act, passed in 1926, extended the provisions of the 1919 Act to rural areas as well.

Of the total number of municipalities in the State, 36 are reported to have introduced compulsory primary education for boys. Compulsory education for boys is also in force in selected areas of 26 district boards. Compulsory education for girls is in force in selected areas of Lucknow and Etawah district boards and Kanpur, Mirzapur and Mathura municipalities. Government bear the full cost of the scheme in the Etawah District Board and two-thirds in the remaining areas.

Recurring grants for compulsory primary education are regulated as under :—

I. MUNICIPALITIES

(1) two-thirds of the extra recurring cost involved including the remitting of fees, as also of
(2) the total cost of bringing the minimum pay of primary teachers up to the minimum prescribed for district boards ;

provided that the total Goverment contribution shall not exceed 60% of the total cost.

[*Note.*: With effect from the year 1948-49 the proportion has been raised to three-fourths of the additional cost of the sanctioned scheme.]

9-3-1950
(FORENOON)

16. Shri Baidyanath Misra, Chairman, District Board, Champaran.
17. Shri Rajeshwar Pd. Sinha, Deputy Commissioner, Singhbhum.
18. Shri Md. Kasim Hussain, Chairman, Bhagalpur Municipality.
19. Shri Munishwar Pd. Sinha, Deputy Commissioner, Ranchi.
20. Shri Anup Lal Mehta, Chairman, District Board, Purnea.
21. Shri Parashar Bhattacharya, Chairman, Katihar Municipality.

(AFTERNOON)

22. Shri Ram Rudra Pd. Sinha, I. A.S., Deputy Commissioner, Manbhum.
23. Shri Vindeshwari Dutta Misra, Deputy Commissioner, Hazaribagh.

10-3-1950.
(FORENOON)

24. The Hon'ble Dr. Anugrah Narain Sinha, Finance Minister, Bihar.
25. Shri Beni Madhav Pd., Ex-Inspector of Local Bodies.
26. Shri Shiva Prasad, Ex-Special Officer, Local Self-Government Department.
27. Shri Kedar Nath Sinha, Inspector of Local Bodies.
28. Lt.-Col. Amar Nath Duggal, Director of Public Health, Bihar.
29. Mr. Ranchor Prasad, Superintendent, Census, Bihar.
30. Dr. B. R. Misra, Professor of Economics, Patna University.

(AFTERNOON)

31. Shri Harnandan Prasad, Deputy Secretary, Finance Department, Government of Bihar.
32. The Hon'ble Pd. Binodanand Jha, Hon'ble Minister, Local Self-Government, Bihar.
33. Shri Gorakh Nath Singh, Director of Public Instruction, Bihar.

Punjab (I)—Simla.

22-3-1950
(AFTERNOON)

1. Shri Behari Lal — Ex-senior Vice-President, Simla Municipality.
2. Shri Sardari Lal Kakar, P.C.S., Secretary, Simla Municipality.
3. Hon'ble Dr. Gopichand Bhargava, Chief Minister, Government of Punjab (I).

23-3-1950.
(FORENOON)

4. Hon'ble Shri Prithvi Singh Azad, Minister, Labour and Local Government Punjab. (I)

Shri Behari Lal — S. No. 1) continued
Shri Sardari Lal — S. No. 2)

5. Shri I. N. Chib, P.C.S., Deputy Secretary, Health and Local Government Department, Punjab. (I)
6. Sardar Gurdas Singh, P.C.S., Deputy Director of Panchayats (Punjab)

24-3-1950
(FORENOON)

7. Shri P. L. Verma, I.S.E., Chief Engineer, P.W.D., Development (Punjab)
8. Dr. M. Mehta, Deputy Director Health Services, Punjab.

9. Shri Badri Nath Chopra, P.C.S., Examiner, Local Fund Accountants & Under Secretary, Finance Department, Government of Punjab.
10. Chowdhury Lahiri Singh, M.L.A., Ex-Minister (Punjab).
11. Pandit Shri Ram Sharma, M.L.A. (Punjab).

Jullundur.

25-3-1950.

12. Shri P. P. R. Sawhney, Chairman, Jullundur Improvement Trust.
13. Shrimati Lekhwati Jain, Senior vice-President, Ambala Municipality.
14. Shri J. M. Srinagesh, I.C.S., Commissioner, Jullundur Division.
15. Shri N. Kashyap, I.C.S., Deputy Commissioner, Jullundur.
16. Master Kishan Singh. President, Ludhiana Municipality.
17. Shri Om Prakash, President, Hoshiarpur Municipality.
18. Shri C.S. Joshi, Secretary, Hoshiarpur Municipality.
19. Head Clerk, District Board, Ludhiana.
20. Accountant, District Board, Ludhiana.

26-3-1950.

21 Shri Harbans Lal, Executive Officer, Hissar Municipality.
22. Shri Durga Datt, Office Superintendent, Jullundur Municipality.

Amritsar.

27-3-1950

23. Shri Narain Das Vig, Secretary, Amritsar Municipality.
24. Shri Kesho Ram Sikri, Ex-President, Amritsar Municipality.
25. Shri P. C. Bhandari, Executive Officer, Amritsar Municipality.
26. Dr. D.N. Ahluwalia, Chairman, Amritsar Improvement Trust.

29-3-1950

27. Shri S. N. Khanna, Chairman, Finance Sub-Committee, Amritsar Municipality.
28. Sardar Kartar Singh Gill, B.A., Secretary, District Board, Amritsar.
29. Sardar Suraj Singh, Vice-President, District Board, Gurdaspur.
30. Sardar Rajinder Singh, Senior vice-President, Amritsar Municipality.
31. Sardar Sukhjunder Singh, Secretary, District Board, Gurdaspur
32. Mahans- Paramhansnath, B. A., President, Gurdaspur Municipal Committee.
33. Shri Madan Gopal Puri, Secretary, Gurdaspur Municipal Committee.

30-3-1950

34. Dr. D. N Bakhshi, Chairman, Ludhiana and Ambala Improvement Trusts.
35. Shri Amolak Ram, Secretary, District Board. Karnal.
36. Chowdhury Lal Chand (Rohtak) Ex-Minister, L.S.G. (Punjab).
37. Shri K. B. Dutta, Secretary, Central Refugee Welfare and Vigilance Board.

Delhi.

19-4-1950
(FORENOON)

1. Dr. Yudhvir Singh, President, Delhi Municipal Committee.
2. Pt. Rameshwar Dayal, I.A.S., President, New Delhi Municipal Committee.
3. Shri S. C. Jain, Secretary, New Delhi Municipal Committee.

(AFTERNOON)

4. Dr. Gyan Chand, Ph. D., Officer of Special Duty, Economic Statistics, Cabinet Secretariat, New Delhi.

5. Ch. Kishon Chand B.A., L.L.B., Chairman, District Board Delhi.
6. Chawdhury Ghasi Ram, P. C. S., Executive Officer, Delhi Improvement Trust.
7. Shri A. R. Malhotra, P.C.S., Lands Officer, Delhi Improvement Trust.
8. Shri C. S. Gupta, A.R.I., Architect, Delhi Improvement Trust.

20-4-1950.
(FORENOON)

9. Shri Jawaher Lal Rawat, Secretary, District Board, Ajmer.

21-4-1950.
(FORENOON)

10. Shri R. S. Mehta, Engineer Secretary, Delhi Joint Water & Sewage Board.
11. Pt. Rameshwar Dayal, I.A.S., Deputy Commissioner, Delhi.
12. Lala Shree Ram, Proprietor, Delhi Cloth Mills Industries, Delhi.
13. Shri K. K. Sharma I.A.S., Secretary, L.S.G., to Chief Commissioner, Delhi.

27-9-1950
(FORENOON)

1. Shri G. Venkataraya Pai, Chief Accountant, Madras Port Trust.
2. Shri G. Muniswami Naidu, Revenue Officer, Corporation of Madras.

The undermentioned officers of the Government of India were also present by special inviation:

1. Shri T. S. Parasuraman, Deputy Secretary, Ministry of Transport.
2. Shri S. K. Ghosh, Under Secretary, Ministry of Transport.
3. Shri. A. C. Bose, Deputy Secretary, Ministry of Finance (Communication Division).

29-9-1950
(FORENOON)

1. Shri N. R. Iyer, Deputy Chief Accountant, Calcutta Port Commissioners.
2. Shri Chatterji, Assistant Land Manager, Calcutta Port Commissioners.
3. Shri D. N. Ganguli, Chief Engineer, Calcutta Corporation.

(AFTERNOON)

4. Shri L. T. Gholap, I.C.S., Chairman, Bombay Port Trust.
5. Shri E. H. Simoes, Deputy Secretary, Bombay Port Trust.

The representatives of the Madras Corporation and the Port Trust and the Ministry of Transport were also present.

30-9-1950.
(FORENOON)

1. Shri L. S. Kagal, Deputy Municipal Commissioner, Bombay.
2. Shri E. H. Simoes, Deputy Secretary, Bombay Port Trust.

Shri D. N. Ganguli, Chief Engineer of the Calcutta Corporation and the representatives of the Ministry of Transport were also present.

1.	Cuttack	27	Witnesses.
2.	Calcutta	53	"
3.	Shillong	17	"
4.	Bombay	44	"
5.	Nagpur	27	"
6.	Madras	63	"
7.	Lucknow	41	"
8.	Patna	33	"
9.	Punjab	37	"
10.	Delhi	25	"
	Total	367	

APPENDIX V

MINISTRY OF RAILWAYS

Previous History. Up to 1890 there was no legislative provision governing the taxation of Railway property by local bodies, but Guaranteed and State Railways in Bengal were exempted from local cesses and some similar exemptions were granted in other provinces also. The Indian Railways Act, 1890, covered this subject in Section 135. The object of this provision was described as "not to relieve Railway Administrations from any liability to local taxation, but to obtain control over the demands on railway administrations by Municipalities and other local authorities and to that railway adminstrations are not unfairly exploited for the benefit of local authorities". An extract of this section is placed below (vide Appendix I). Under this section a local authority cannot tax railway property unless the same is authorised by the issue of a Notifaction by the Government India. The accepted policy of the Government of India at that time was summarised as follows, by Major Temple, who was placed on special duty in 1890 to go into the whole question of taxation of railway property by local authority :

> "To permit Municipalities and local authorities to tax railway administrations only so far as to recoup themselves reasonably for the cost of services rendered to the administrations ; to prohibit the levy of any taxes which are not raised for services to be directly rendered ; not to assess railway property on its rateable value only".

2. The Todhunter Committee which reviewed taxation as a whole in 1924 went into the question of local taxation of Railway property also (vide pages 324 to 333) of the Report of the Committee. The problem as seen by the Committee is very much the same as it now. They have clearly stated that in many cases, where the Railway Administrations have provided self-contained railway colonies, the local authority are levying taxes which cannot be considered reasonable. They have also pointed out that there are cases in which municipalities attempted to include within their limits Railway colonies which have been provided with all the civic amenities long before the constitution of the local authorities themselves. Therefore they have stressed that "services rendered" should be the criterion for the payment of local taxes. They recommended that railway buildings and lands should be assessed at fixed percentages on their cost according to particular classes of buildings and properties and that permanent way and bridges should be altogether exempted.

3. **Passing of the Government of India Act, 1935.** The Government of of India Act, 1935 contained a provision *viz.* Sec. 154 (vide extract at appendix II) which exempted property vested in the Crown from new taxation by local authorities until Federal Legislation otherwise provides. Under this, railways were precluded from payming

(i) taxes imposed for the first time after 1-4-1937 the date the 1935 Act came into force ;
(ii) taxes in respect of railway property acquired or buildings constructed or added after that date ; and
(iii) any increase in the rates of taxes levied before that date.

To bring back the position to that existing prior to 1-4-1937 the Railway (L. A. T.) Act, 1941 was passed. The only changes made from Section 135 of the Railways Act of 1890 were that the principle of services rendered in fixing a fair and reasonable sum in lieu of taxes was given statutory recognition and that officers to determine such amounts should be District or High Court Judges, active or retired. In the instructions which were issued to Railways they have been asked to consider every case wherein a municipality wants to levy taxes on the "services renderd" test.

4. In the course of the last few years, the provincial Governments have come up to the Government of India a number of times with requests for change in their policy in the matter of taxation of railway property. Their main contention has always been that no special treatment should be meted out to the Railways and that their property should be treated like any other private property. Of course it has not been accepted here.

5. **The present position.** The question may be reviewed from two different angles *viz.* from the constitutional point of view and on the intrinsic merit of the case.

6. There is statutory provision for the exemption of Central Government property as stated in para. 3 above. Similarly Section 155 of the Government of India Act, 1935 exempts provincial government property from central taxation. Thus the two sections are complementary to each other and it is a fundamental constitutional principle which cannot be departed from merely because the provincial governments think that it does not fit in with the principles of local taxation. The Todhunter Committee have stated in their report that in certain European countries railways are completely exempted from local taxation. In England the general district rate for local purposes is levied on railway property only at one-fourth of the normal rate. In the Canadian Constitution also there is the provision (Sec. 125) which states, "no lands or property belonging to Canada or any province shall be liable to taxation." In the draft Indian Constitution similar provisions exist and some of the provincial governments' protests against the same have been referred to the concerned sub-committee of the Indian Constituent Assembly.

7. On merits also the Railways have a strong case. The provincial governments always begin their arguments on the premises that railways are commercial undertakings. This is far from the truth since the primary concern of the railways is the development of the country at large, and any profits in their working go into the Central exchequer.

8. Railway colonies are also large that even the largest private estates within municipalities cannot apropriately be compared with them and due to the size of the railway colonies, it has often been possible for railways to provide facilities and amenities far superior in range, scope and quality to any which a private owner of property would find it economical to provide at his own cost. There are cases in which self-contained railway colonies have been included in the municipal limits long after the railway had incurred the initial capital expenditure, with the result that the railways pay taxes while no corresponding services are rendered in return.

9. In regard to the argument that railway staff are making use of the amenities provided by the municipalities, it may be noted that railway staff who are residents within municipal limits are paying municipal taxes like any other citizen direct or through the house rent collected by the landlord. Those living in the Railway colonies are normally provided with those amenities by the Railway Administrations even where they enjoy municipal amenities.

10. Finally it should not be forgotten that in many instances it was the railways which developed the trade and commerce of the interior. The prosperity of these places in turn attracted more people and consequently municipalities were formed. So, both the railways and municipalities are complementary to each other and one should not try to exploit the other.

11. In the fact whereever a railway administration is provided with certain specific services like water supply, the municipality concerned has always got a return for it in taxation or a lump sum payment in lieu.

12. The attitude of the railways has always been that they are prepared to pay for services actually rendered but they object to being brought under *contri-*

bution for taxes which have no relation to services rendered because railway property under rails, sidings, etc. (yards and connected offices) containing structures of high capital value but no corresponding revenue return can ever benefit from lights, water sewage, etc. to anything like the same extent as office or house accomodation in municipalities can benefit.

13. Moreover, recently, particularly during and after the war, railways have already taken on so many items of heavy expenditure which is normally chargeable to provincial revenues, such as the cost of protection of railway lines by one means or another and the cost of special squads of police and magistrates to check ticketless travelling, which is as much an offence against the general laws of land as theft or any other crime and which in the ordinary course it is the responsibility of the provincial government to provide.

14. The period during which railways could afford to take on large commitments has come to an end, and in the days ahead railways can no longer afford to bear charges which are not legitimately their responsibility under the financial provisions of the Constitution. The provinces have got to realise that there are definite limits to the arguments that the railways are commercial concerns which should be treated like any other commercial concerns. They have a service aspect and the gains on railways are shared with the general revenues of the centre and losses will finally have to be met also from central revenues in one form or another. In the operation of railways the only consideration is not what the traffic will bear, and concessions have been made in the past and are still being made, which cannot be justified on purely commercial grounds. Any further reduction in the shrinking profits of railways has its reprecussions on centeral revenues and the salutary constitutional principle that the provincial and central governments should refrain from taxing each other's property should not be prejudiced by parochial considerations such as these governing the incidence of taxation by local bodies, and the distribution of the burden of taxation as between residents of local areas. Provincial Governments have been recently launching out into the sphere of road transport on their own and, in principle, there is no significant difference between the centre claiming income tax on the profits of such enterprises and the provincial governments' contention that the Central Govt. should lay its property open to taxation by provinces in the same manner as private property.

Extract from Indian Railways Act, 1890.

* * * * * * * *

135. Notwithstanding anything to the contrary in any enactment, or in any agreement or award based on any enactment the following rules shall regulate the levy of taxes in respect of railways and from railway administrations in aid of the funds of local authorities, namely:—

(1) A railway administration shall not be liable to pay any tax in aid of the funds of any local authority unless the Governor-General in Council has, by notification in the official Gazette, declared the railway administration to be liable to pay the tax.

(2) While a notification of the Governor-General in Council under clauses (1) of this section is in force the railway administration shall be liable to pay to the local authority either the tax mentioned in the notification or, in lieu thereof, such sum, if any, as an officer appointed in this behalf by the Governor-General in Council may, having regard to all the circumstances of the case, from time to time determine to be fair and reasonable.

(3) The Governor-General in Council may, at any time revoke or vary a notification under clause (1) of this section.

(4) Nothing in this section is to be construed as debarring any railway administration from entering into a contract with any local authority for the supply of water or light, or for the scavenging of railway premises, or, for any other service which the local authority may be rendering or be prepared to render within any part of the local area under its control.

(5) "Local authority" in this section means a local authority as defined in the General Clauses Act, 1887, and includes any authority legally entitled to or entrusted with the control or management of any fund for the maintenance of watchmen or for the conservancy of a river.

Extract from Government of India Act 1935.

* * * * * * * *

154. Property vested in His Majesty for purposes of the Government of the Federation shall, save in so far as any Federal Law may otherwise provide, be exempt from all taxes imposed by, or by any authority within, a Province or Federated State.

Provided that, until any Federal Law otherwise provides, any property so vested which was immediately before the commencement of Part III of this Act, liable, or treated as liable, to any such tax, shall, so long as that tax continues, continue to be liable, or to be treated as liable thereto.

APPENDIX VI

Memorendum *15th August, 1950*

Rating of Railways

In accordance with the request of the Local Finance Enquiry Committee of the Government of India for information regarding the taxation of railway property in Great Britain, the following memorandum is transmitted for their information.

In order that the present position may be appreciated it is considered desirable to give a very brief and broad outline of the history of the rating of railways. It is also necessary to distinguish between England and Wales on the one hand and Scotland on the other, inasmuch as rating law and practice is different in the two countries.

The foundation of the English rating system was the Poor Relief Act of 1601, which imposed a liability on occupiers of property in a parish to pay contributions for the relief of the poor in that parish, and eventually Parliament laid it down that the payment (or "rate") was to be based upon "an estimate of the net annual value of the several hereditaments rated"—in other words "the rent at which the same may reasonably be expected to let from year to year", the tenant paying the rates and the landlord keeping the property in repair. Various Rating Acts were passed subsequently, but the general principle that the value of a rateable hereditament for the purpose of rate payments must be its "rental" value was not disturbed.

Prior to 1930 the rating of railways had to be brought within the definition of "net annual value", and further, it had to be done in each separate parish. There arose, therefore, the theory of a "hypothetical landlord" who owned the track, stations, etc., forming the hereditaments in the parish, and a "hypothetical tenant" who was willing to pay a rent for tenancy of that hereditament. In consequence a complicated procedure grew up over the years, the starting point of which put quite simply, was the estimated gross receipts in the parish. From these were deducted the expenses incurred in earning the receipts, leaving a figure for "net receipts". The hypothetical tenant was presumed to supply the rolling stock and other moveable equipment, and on the value of these he would first require interest and profit for himself, leaving a residue out of which to pay his "rent" and rates. By this means a rental value, *i.e.*, "net annual value" was arrived at.

The practice of estimating a net annual value for each parish, with no regard to the value of the railway undertaking as a whole, was unsatisfactory, and did not apply in Scotland where, since 1854, railways were valued "in cumulo", *i.e.*, "as a whole"—a total valuation first being determined for each railway and afterwards apportioned over the parishes.

Following the 1914/18 war, during which railways were under Government control, the old method of valuation was virtually unworkable, largely because the accounts for individual companies ceased to be published. The rating assessments for railway property were therefore adjusted on a sliding scale method based upon a comparison of receipts earned in the year in question with similar earnings in the year 1913. This method continued to operate until the coming into force of the Railways (Valuation for Rating) Act, 1930.

The 1930 Act, for the first time in history, provided that the railways of England and Wales were to be valued "in cumulo" and a statutory body known as the "Railway Assessment Authority" was set up by the Act to ascertain the net annual value of each railway undertaking as a whole, and apportion that net annual value over the individual parishes in accordance with an approved "Apportionment Scheme." The Railway Assessment Authority were to make new valuations at five-yearly intervals and to incorporate their values and the apportionments in what was known as the "Railway Valuation Roll".

Three such Railway Valuation Rolls were issued and came into operation between 1st April, 1930 and 31st March, 1946, and the Fourth Roll (1946-51) was prepared in draft but was rendered void by the Local Government Act, 1948, referred to later on. It should be noted that the valuations made by the Railway Assessment Authority covered only England and Wales the "cumulo" system was already operating in Scotland under Scottish Rating Law.

In the Committee's letter it is observed that they wish to know the "actual capital invested in Railway undertakings". The capital—as such—of a railway undertaking has never been relevant when estimating the net annual value for rating purposes. It has already been explained that the basis of net annual value is "net receipts."

Mention is also made in the Committee's letter that "the assessable value of railway is only one-fourth of the rateable value fixed for private properties". In order to avoid confusion it might be as well to use the English designations, and "assessable" value in the Committee's letter is equivalent to the English "rateable" value; whilst the "rateable" value in the Committee's letter is equivalent to the English "net annual" value.

It is true that under what is known as the "Rate Relief" legislation in the Local Government Act, 1929, the Railways paid rates to Local Authorities on one-fourth only of their net annual value, *i.e.* on the "rateable" value. This rate relief legislation was passed at a time of acute trading depression, and was mainly designed to assist agriculture, heavy industries and mining. Agricultural lands and buildings were freed from paying any rates at all, whilst factories and other properties which fell within the definition of an "industrial hereditament" were relieved of three-fourths of their rate burden, paying one-fourth only to Local Authorities and retaining the other three-fourths.

At the same time what were known as "Freight Transport Hereditaments" comprising railways, docks and canals were also relieved of three-fourths of their rate liability, but with the fundamental difference that this three-fourths relief was not retained by the Companies but was required to be paid into funds out of which rebates in carriage charges, dock charges, etc., were given to specified classes of goods and traders. It is unnecessary to go into detail as to how these reliefs were administered—the information is given to explain why railways did not secure the same relief financially and directly as did the rate payers occupying industrial hereditaments.

The following figures are for the year 1947-48 (ending 31st March 1948) and the railways paid local rates on the total rateable values of £1,300,000 (England £136,500 (Scotland).

	Net Receipts	Net Annual Value	Total Rateable Value
England and Wales	£	£	£
(*Third Railway Valuation Roll*).	31,712,000	5,776,000	1,300,000
Four main Trunk Railways.			
Scotland			
Two Main Trunk Railways.	2,623,000	520,000	136,500

It may be observed that the Rateable Value is not an exact quarter of the Net Annual Value. This is because certain property, although a "railway" hereditament, was not necessarily a Freight Transport Hereditament, and also because earlier Rating Acts gave other reliefs which affected Rateable Value and have been continued.

DISTRICT BOARDS

	Public Health.	Medical Relief.	Drainage.	Conservancy.	Total expenditure.	Total income.	Percentage of 5 and 6.	Per capita incidence of total expenditure.
								Rs. As. P.
Madras.	16,92,806	31,47,487			48,40,293	5,72,78,682	8.4	0 1 8
Bombay.	6,97,407	6,63,717			13,61,124	4,63,30,468	2.9	0 1 4
W. Bengal.	13,74,822	10,86,743			24,11,565	74,31,976	32.4	0 2 3
Uttar Pradesh.	8,80,000	24,40,000			27,20,000	2,95,30,000	9.2	0 0 10
Punjab.	6,30,925	8,33,463			14,64,388	1,16,03,63 7	12.6	0 2 3
Bihar.	13,98,785	1,02,556			35,01,34 1	2,58,56,96 0	13.5	0 1 6
Orissa.	1,79,042	3,96,760			5,75,742	52,68,919	10.9	0 1 1
Madhya Pradesh.	3,57,592	3,27,429				1,55,14,89 5	4.4	0 0 8
Assam.	89,527	7,00,033			7,89,560	61,65,666	12.7	0 1 4

662. It will be observed that in the case of City Municipal Corporations the highest per capita expenditure (*viz.* Rs. 8-7-7) was incurred by the Madras Municipal Corporation and the lowest (Rs. 2-14-9) by the Calcutta Corporation. The per capita figure for the Bombay Municipal Corporation was only slightly below that of Madras (*viz.* Rs. 8-0-5). In the case of other municipalities also the State of Madras leads with a per capita figure of Rs. 3-2-0 while the lowest of Rs. 1-7-0 was recorded in the case of Uttar Pradesh. The overall position disclosed may be described as under :—

(*a*) Over Rs. 3/-	Madras (Rs. 3-2-8)
(*b*) Over Rs. 2/-	(*i*) Bombay (Rs. 2-12-11)
	(*ii*) Madhya Pradesh (Rs. 2-11-4)
	(*iii*) Assam (Rs. 2-8-6)
	(*iv*) West Bengal (Rs. 2-5-9)
(*c*) Over Re. 1/-	(*i*) Bihar and Orissa (Rs. 1-15-1)
	(*ii*) Punjab (Rs. 1-7-11)
	(*iii*) Uttar Pradesh (Rs. 1-7-0).

663. In the case of rural areas the figures are generally insignificant. That indicates the poverty of resources for dealing with the problem of high mortality and low standard of public health, which generally prevail in the country. Taking the figures as they are, the highest per capita figure (Re. 0-2-3) is for West Bengal and Punjab while the lowest (Re. 0-0-8) for Madhya Pradesh and the position may be stated as under :—

(*a*) Over 0/2/0	(*i*) West Bengal and Punjab (Rs. 0-2-3)
(*b*) Over 0/1/0	(*i*) Madras (Rs. 0-1-8)
	(*ii*) Bihar (Rs. 0-1-6)
	(*iii*) Bombay and Assam (Rs. 0-1-4)
	(*iv*) Orissa (Rs. 0-1-1)
(*c*) Less than 0/1/0	(*i*) Uttar Pradesh (Rs. (0-0-10)
	(*ii*) Madhya Pradesh (Rs. 0-0-8).

664. Unimpressive as the above figures are, it may be mentioned, that even this much effort the local bodies were able to put in only with financial assistance from State revenues which was as under :—

	Expenditure Medical and Public Health.	Government Grant-in-aid.	Percentage.
Madras Municipal Corporation.	65,90,653	1,790	0.02
Bombay Municipal Corporation.	1,19,59,556	7,120	0.05
Calcutta Municipal Corporation.	72,72,775	8,304	0.11

OTHER MUNICIPALITIES			
Madras.	1,16,04,188	7,39,000	6.3
Bombay.	1,15,35,576	5,55,713	4.8
West Bengal.	53,14,662	56,270	0.1
Uttar Pradesh.	98,80,000	2,47,809	2.5
Punjab.	21,89,407	...	...
Bihar.	31,63,269	8,41,681	26.6
Orissa.	5,10,209	...	...
Madhya Pradesh.	12,94,909	...	...
Assam.	7,30,552	4,644	0·6
DISTRICT BOARDS			
Madras.	48,40,293	2,20,000	4.5
Bombay.	13,61,124	5,50,406	40.4
West Bengal.	24,11,565	6,37,102	26.4
Uttar Pradesh.	27,20,000	6,06,795	22.3
Punjab.	14,64,388	3,89,966	26.6
Bihar.	35,01,341	19,90,105	56.8
Orissa.	5,75,742	...	...
Madhya Pradesh.	6,84,951	71,628	10.4
Assam.	7,89,560	1,46,812	18.5

The payment of Government grants-in-aid for this purpose is regulated differently in each state.

665. **Madras.** In Madras no grants are paid by Government to local bodies towards recurring and non-recurring expenditure on the maintenance of rural dispensaries. There is, however, a system of subsidies for rural medical practitioners and midwives. Grants to the extent of half the cost of medical buildings approved by Government and also towards equipment for medical institutions are sanctioned by Government provided the local body concerned is in a position to meet the other half from its funds. In the case of institutions opened prior to 1928, the Government contribute half-grant towards the pay of the medical officers. The policy after 1928 is to provincialise every year five local medical institutions situated in the taluka (tehsil) headquarters. In the case of the latter, if under the control of local bodies, Government medical officers are employed and the local bodies pay one-half of their pay, the other half being met by Government. The orders regulating provincialisation of medical institutions are subject to the following conditions :—

(*a*) that the local body concerned shall agree to hand over to the Government, free of cost, the buildings, (together with the site) in which the institution is located and also the furniture and equipment ;

(*b*) that out of the savings accruing as a result of the transfer, the local boards should open and maintain within their areas one or more additional regular or rural allopathic dispensaries and the municipal councils should similarly agree to earmark the savings for the purposes of installing a water supply or drainage scheme in the town.

Out of 48 municipal councils consulted 32 have accepted the conditions referred to above. Out of 63 local boards consulted 42 have agreed. Actually, however, six institutions were provincialised under the scheme during 1949-50. In view of the second condition attached to the scheme of provincialisation, it is hardly likely to result in any saving to the local bodies.

Half the expenditure on plague is generally met from State revenues. For anti-malaria measures Government usually pay one-third but where a local body is not able to meet its share of 2/3rds, more than the usual one-third grant is sanctioned. If a local body is not in a position to meet even a portion of the cost of the scheme and the scheme is imperative, Government as a special case meet the entire expenditure. Local bodies in whose areas filariasis is endemic are held eligible for Government grant to the extent of one-third of the actual expenditure. In other cases, a grant to the extent of one-fourth of the actual expenditure is paid. Since 1942-43, the Government have agreed to pay grants equal to one-fourth the expenditure on maternity and child welfare schemes. With effect from 1947-48, this proportion has been raised to one-half in the case of bodies that cannot find three fourths from their own funds. Half-grants towards the construction of buildings, for maternity and child welfare centres according to approved type designs are also given by Government. In the case of drainage works which are generally financed by loans, the additional amount required towards the capital cost over and above the amount raised by loan is borne by Government. To sum up, in the words of the Director Public Health, Madras, "Grants are now given as far as Public Health is concerned in respect of water-supply, drainage, maternity and child welfare and anti-malarial or anti-filarial measures. Substantial assistance is rendered to local bodies by the Government themselves shouldering a good portion of the expenditure on medical relief in rural and urban areas. The health staff are mostly provincial service personnel and their salaries are met in part by the Government."

666. **Bombay.** In Bombay, the Government bears one-half of the cost on account of health officers and one-third of the cost on account of sanitary inspectors appointed by the municipalities. Non-recurring grants are made to local boards and municipalities towards their expenditure on anti-epidemic measures if during the year their expenditure on anti-epidemic measures, medical and public health has not been less than 10% and 4% of their income respectively. Dispensary grants are also made to local boards and municipalities upto a maximum of the salary and allowances of the medical officer in charge of the dispensary. If these dispensaries have on their staff a nurse or midwife, Government pays also a grant of Rs. 360/- per annum. Government further bears diet charge at annas 6 per day per each indoor patient admitted to District Local Board dispensaries and to those municipal dispensaries which are in charge of Government medical officers. With a view to encourage medical practitioners to settle in rural areas the Government subsidises more than 400 medical practitioners and the cost on this account is shared between the Government and the District Local Boards, in the ratio of 4:1. The Government also bears 33-1/3% and 50% of the capital cost of piped-water supply and drainage schemes undertaken by District and Borough Municipalities respectively. Subsidy on the same scale is paid to municipalities for their housing schemes for Harijan employees. Vaccination in municipal and local board areas is done by Government staff towards the cost of which local bodies make a fixed contribution. In the case of six District Local Boards and one Municipality, however, this work has been transferred to them, and the Government makes a grants-in-aid towards the expenditure. The Government has in addition undertaken in the rural areas the following schemes the cost on which is borne entirely by Government :—

(1) Combined Medical and Public Health Units, which carry out sanitary improvement and provide maternity and child-welfare service in the group of villages covered by each unit. 23 such units have been started.

(2) Mobile Hospital Units, each of which is equipped with a 50-bedded mobile hospital in charge of a medical officer, for being rushed to places affected by epidemics. Three such units are functioning at present.

(3) Malaria Control Schemes for regular spraying of D. D. T. have been started in 9 Districts of the State. The annual expenditure on this account is roughly Rs. 27 lakhs.

667. **West Bengal.** In West Bengal, the Government pays to municipalities :—

(a) half the pay of the health officers and in a few cases of the sanitary inspectors.

(b) two-thirds of the capital cost of sewerage or drainage schemes.

(c) small grants for jungle cutting, kerosenisation etc. if equal amount is spent from the municipal funds.

(d) a fixed capital cost for establishment or improvement of maternity and child welfare centres plus recurring cost of the pay of a health visitor.

(e) small contributions for T. B. Chest clinics or antileprosy clinics in a few municipalities and

(f) small grants for school hygiene.

In the case of district boards the Government pays :—

(1) An annual subsidy not exceeding Rs. 2,000 to approved Thana health units maintained by district boards.

(2) two fifths of the annual cost of the permanent Thana vaccinators who are district board employees and subsidies for the pay of vaccination inspectors and sub-inspectors (at Rs. 90 and Rs. 50 respectively) who are still borne on the district board cadre. The latter are now being provincialised as vacancies occur.

(3) The pay of health assistant per thana health unit for compilation of vital statistics.

(4) Small Kala-azar grants

(5) Grants to thana and village dispensaries maintained by district boards at the rate of Rs. 500 and Rs. 250 respectively per annum.

(6) Hospitals and dispensaries at District and sub-divisional headquarters have been provincialised.

668. **Uttar Pradesh.** District hospitals located within municipal areas were previously maintained by district boards to which the municipal boards paid a contribution but these hospitals are now maintained by Government. The need for subsidiary hospitals over and above the district hospitals arises only in the larger towns like Lucknow, Kanpur, Banaras, Allahabad, Agra etc., and these have been provided by municipal boards of these places. Medical units in the smaller towns were provided by district boards and since their conversion into municipalities they continue to be maintained by them. There are about 20 municipal dispensaries in the whole of Uttar Pradesh on which

the expenditure incurred by municipal boards was Rs. 12,20,441/- in the year 1947-48. Similarly, municipal boards and notified areas are responsible for general sanitation, epidemic control and vaccination in their beats and are generally required to meet the cost of such measures from own funds. Municipal boards in the tate also maintain 16 Infectious Diseases Hospitals, for specialised treatment of such diseases. Grants-in-aid given by Government during the financial year 1949-50 for anti-epidemic measures which comprise anti-rat campaign, anti-cholera measures and opening of temporary hospitals amounted to Rs. 11,080/-. Grants for drainage and waterworks paid to the municipal boards during 1949-50 amounted to Rs. 9,07,700/-. Grants given by the Provincial Health Board to the municipalities for various purposes of sanitation and public health amounted to Rs. 4,74,575 during 1949-50.

The district boards maintain about 750 dispensaries and meet the entire cost of them. Their total expenditure on these units during the year 1949-50 amounted to about Rs. 34 lakhs against which they received grants-in-aid aggregating Rs. 2,47,300/-. The district boards also run unani and ayurvedic dispensaries in the rural areas. In view of the inelastic resources of district boards, the State Government has embarked upon a programme of opening allopathic, unani and ayurvedic dispensaries spread over a number of years. 63 general hospitals and 59 women's hospitals at district headquarters and other places which, were maintained by district boards have been taken over by Government as State institutions. The State gives grants aggregating Rs. 3,46,800/ per annum to the district boards for running subsidized units and for giving subsidy to medical practitioners. A grant of Rs. 2,55,400 is also given to the local bodies for the improved maintenance of their dispensaries. The State Government have assumed responsibility for control of epidemics in rural areas because the district boards have not the resources for dealing with widespread epidemics. Government expenditure in the field of public health is roughly Rs. 20 lakhs per annum. Some district boards supplement Government's efforts in this field by providing small amounts for subsidiary measures. They also meet all charges on vaccine. Their expenditure on public health activities during 1946-47 amounted to Rs. 9,12,997/- out of a total income of Rs. 302 lakhs i.e. 3% of their entire income.

669. **Punjab.** The total amount of Government grants in Punjab for public health is Rs. 3.76 lakhs. Half the pay of municipal health officers is contributed by Government. In head-quarter municipalities which do not have a Health Officer the District Medical Officer of Health acts as such on payment of a small conveyance allowance half the cost of which is paid by government. The posts of sanitary inspectors and lady health visitors have been provincialised. But the cost of additional Lady Health visitors is paid by local bodies. In the case of epidemics the the initial responsibility is on the local bodies. Government steps in only when the finances of local bodies are not sufficient. For this purpose Government provide yearly some amount in their budget, irrespective of the finances of local bodies. If during an epidemic, the local body concerned has no funds, Government assist it with grants-in-aid which may be 50 per cent. or even cent percent.

670. **Bihar.** In Bihar, the municipalities receive no statutory grants for medical purposes as such, but are assisted with grants for specific purposes. The determining factor in all cases is the need of each municipality and the efficiency of its administration.

In the case of district boards, there are non-statutory grants for the maintenance of hospitals and dispensaries. The present system is not based on any fixed principles e.g. population or financial capacity. Grants are made according

to requirements of district boards and Government's ability to sanction them. Apart from this, Government have of late provincialised hospitals at the district headquarters and a few at sub-divisional head quarters, which formerly were maintained entirely or partly by district boards.

671. **Orissa.** The principle governing grant-in-aid to local bodies in Orissa for expension of medical relief is that there should be a dispensary or a hospital within the jurisdiction of a police station and that the district board should spend on medical relief not less than the annual average expenditure incurred exclusively on medical relief during the years 1939-40 to 1943-44 or not less than 10% of their cess demand, whichever may at any time be greater. The State Government are also sanctioning Rs. 20,612 annually to the North Orissa district boards for maintenance of rural dispensaries. They are also meeting the entire cost of dispensaries *now opened in the rural areas under their post-war programme of expansion of* medical relief, the management of which is entrusted to the local bodies concerned. In South Orissa, Government pay half as well as percentage grants to certain local fund dispensaries in lieu of services rendered to Government servants and for the post-mortem work etc. The half grant represents half the expenditure over a dispensary whereas the percentage grant is limited to 10 per cent. of the pay of the medical officer. Government also pay half grant for the construction and repair of buildings of local fund dispensaries. Subsidised dispensaries are opened under the management of district boards for each of which Government pays a subsidy of Rs. 500/- a year for the doctor and the district board concerned pays Rs. 300/- for medicines, etc. Subsidised ayurvedic dispensaries hava also been opened at some centres. In order to afford further relief to local bodies certain hospitals under their control at sub-divisional headquarters and other important villages have been provincialised.

Recurring grants formerly given to district boards in the coastal districts for public health purposes, have been withdrawn after the health organisation under the district boards was provincialised with effect from the 1st February, 1947. As a result of this the pay of the staff is met from State revenues, while the local bodies have to spend on contingencies, travelling allowances, and drugs such as vaccine, etc.

672. **Madhya Pradesh.** In Madhya Pradesh, Government assists municipalities with small annual recurring grants towards the maintenance of hospitals and dispensaries. These have since been raised by 50% subject to a minimum of Rs. 300, as a temporary measure. The extent of assistance is, in each case, determined with reference to the efficiency with which each such institution is run. Building and other non-recurring grants (generally equal to half the estimated cost) are given in deserving cases. On the preventive side, grants are paid to municipal committees to meet half the cost of health officers and sanitary inspectors as also for women Assistaat Medical Officers or midwives employed on the prevention of infant mortality. Grants equel to half the expenditure are also paid for rat destruction work subject to certain conditions. Government also contribute not more than half the cost of drainage schemes plus P. W.D. charges, where the work is carried out through their agency. Grants to Janapadha Sabhas for the improvement of water supply in rural areas are made provided they undertake to provide 33% of the expenditure out of which half is contributed by the Sabha and the other half (in the shape of cash or materials or both) by the residents benefited, and the remaining 67% is met from Government grants.

673. **Assam.** In Assam the payment of medical and public health grant is regulated by the needs of particular localities, due regard being had to the back-

ward or undeveloped character of the areas as also the capacity of the bodies to execute works. This principle appears to the State Government sound as the main function of the grants-in-aid, according to them, is to equalise the resources of different local bodies and to serve as a supplement to local resources. They, however, consider that the grants should be earmarked for particular purposes to ensure that those services are rendered and that there should be a detailed scrutiny of expenditure on grant-in-aid works.

674. **Ceneral Observation.** It will be observed that the system of Government assistance does not follow any fixed principle, much less is there any uniformity regarding the basis on which grants are given. The grant is generally inadequate and that explains the low state of public health prevalent in large parts of the country. In some states, like Madras, Uttar Pradesh, Bihar and Orissa gradual provincialisation of medical relief has been initiated. The Government of Orissa has also undertaken the provincialisation of the public health service. A similar policy is being pursued by the Government of West Bengal in rural areas. In relation to public health the prevention and control of malaria, cholera, plague, and other epidemic disseas is a function which in our opinion should be completely provincialised. Local bodies have not got the resources to deel with epidemics. Wherever the cooperation of a popular body is desired for the furtherance of any public scheme such as inoculation or vaccination, the services of the local body might be availed of, but they should not bear any financial responsibility. The raising of the standard of public health is a matter which can not be entrusted to local bodies with their slender financial resources. As the Bhore Commitee has pointed out, one of the causes of the low level of efficiency of health administration in the country is that the financial resources of local bodies are, "in the majority of cases, insufficient to maintain adequate services staffed with well qualified personnel".* As long as this responsibility is shared with local bodies there can be no hope of any material improvement in the physical condition of the people. It is well known that the average expectation of life at brith in this county is only 26 years, whereas it ranges from 50 to 60 years in western countries. It is low even when compared with Asiatic countries like Japan, where the average expectation of life at brith is 45 years. One of the directives of State policy, as contained in Article 47 of the Constitution of India, is that

> "*The State shall regard* the raising of the level of nutrition and the standard of living of its people and *the improvement of public health as among its* primary duties".

* Paragraph 37, page 33, Volume I of the Report of the Health Survey & Development Committee.

675. In accordance with the views expressed above, the distribution of expenditure in regard to public health should be as follows :—

Local Bodies.

(a) the construction, maintenance and cleansing of drains and drainage works and of public latrines, urinals and similar conveniences ;

(b) scavenging and the removal and disposal of excrementitious and other filthy matters and of all ashes, refuse and rubbish.

(c) the reclamation of unhealthy localities, the removal of noxious vegetation and generally the abatement of all nuisances ;

(d) the regulation of places for the disposal of the dead and the provision of new places for the said purpose ;

(e) the registration of births and deaths.

State Governments.

(f) public vaccination

(g) prevention and suppression of infectious and dangerous diseases ;

(h) establishing and maintaining public hospitals and dispensaries and carrying out other measures necessary for public medical relief.

While we are of the opinion that the expenditure should be apportioned as above, some of us apprehend that when the State Governments take over the liability for expenditure they may also wish to take over the administration and control of that expenditure. As we are concerned only with financial matters, we are not in a position to express any opinion on this point. We trust, however, that it may be found possible to let the division of functions remain as it is at present.

CHAPTER XX
COMMUNICATIONS

676. The provision of comunications is one of the main functions assigned to local bodies. It includes the construction of roads, bridges, culverts, planting of road-side trees, etc.

677. As a result of the Nagpur Plan, the entire road system of the country has been classified into (1) National highways, (2) Provincial or State highways, (3) Major District roads, (4) Minor District roads and (5) Village roads. Under entry No. 23, List I, Seventh Schedule to the Constitution of India, "Highways declard by or under law made by Parliament to be National highways" is a Union subject. Consequently, the responsibility for their construction and maintenance devolves on the Centre. The Provincial highways are looked after by the Provincial P.W.D., while the district and village roads may be considered to be the legitimate domain of local bodies.

678. The sub-joined figures extracted from the Statistical Abstract for India, 1946-47 show the total road mileage vesting respectively in the State Gevernments and local bodies in each State as on 31st March, 1945.

ROADS EXPENDITURE 1944-45

(Vide Statments No. 210 & 211, Statistical Abstract for 1946-47)

STATE	Total Road mileage		Expenditure on maintenance, repairs and minor improvements.				REMARKS
	P. W. D.	Local Bodies	Provincial	Local	PER MILE		
					Provincial	Local	
			IN LAKHS OF RUPEES		Rs.	Rs.	
Madras	4,282	33,321	56.91	121.04	1329.05	363.2	
Bombay	6,975	13,774	75.03	21.83	1075.6	544.7	
Bengal (undivided)	2,243	27,533	7.99	37.90	356.20	137.6	
Uttar Pradesh	5,007	26,606	97.40	39.26	1945.20	142.2	
Punjab (undivided)	6,168	18,610	86.70	17.20	1405.60	92.4	
Bihar	1,302	28,231	*20.23	29.36	1553.70	103.9	*Provincial figure.
Orissa	3,056	82,57	9.10	5.35	297.70	64.7	
Madhya Pradesh	7,572	1,568	38.95	1.70	514.30	108.4	
Assam	4,427	6,959	37.90	7.18	856.10	103.1	
	41,032	165,859	430,21	280.82	@ 1048	@ 169	@Average per mile.